

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, November 15, 2016

Lebanon, Virginia

BOARD MEMBERS:

Bradley C. Lambert – Chairman

Bill Harris – Public Representative

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff – Coal Industry Representative

Mary Quillen – Public Member

Rita Surratt – Public Member

APPEARANCES:

Rita Surratt – Public Member for Dickenson County

Mary Quillen—Chairman of the Virginia Gas & Oil Board

Rick Cooper—Director of the Division of Gas & Oil and
Principal Executive to the Staff of the Board

Paul Kugelman, Jr.—Senior Assistant Attorney General

Butch Lambert—Department of Mines, Minerals, and Energy

Donnie Rife – Public Representative

Donnie Ratliff – Coal Representative

Bruce Prather—Representative of Oil and Gas Industry

Sarah Gilmer—Staff Member of the Division of Gas & Oil

Sally Ketron—Staff Member of the Division of Gas & Oil

Blair Linford – Staff Member of the Division of Gas & Oil

Prepared by: Joanna Boyd

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1

2 **Butch Lambert:** Good morning ladies and gentlemen. It's now after 9 o'clock and to begin our
3 proceedings this morning. First of all, before we begin, I'll ask if you have electronic
4 communication devices, to please turn those off or put them on vibrate. We would appreciate
5 that, and we will begin this morning by asking the Board to introduce themselves and I'll begin
6 with Mr. Kugelman.

7 **Paul Kugelman, Jr.:** Paul Kugelman with the Virginia Attorney General's Office.

8 **Butch Lambert:** And I'm Butch Lambert with the Department of Mines, Minerals, and Energy.

9 **Donnie Ratliff:** Donnie Ratliff, representing coal.

10 **Bruce Prather:** I'm Bruce Prather. I represent the Oil & Gas Industry.

11 **Mary Quillen:** Mary Quillen, Public Member.

12 **Butch Lambert:** Thank you.

13 **Item Number 1**

14 **Butch Lambert:** This morning, on our agenda, we will begin by receiving comments from the
15 public. If Brenda Justice would please come up.

16 **Brenda Justice:** Looks like I'm back again.

17 **Butch Lambert:** That's alright, Ms. Justice. Could you please state your name for the record?

18 **Brenda Justice:** I'm Brenda Justice at 1101 Longwall Lane, Raven, Va.

19 **Butch Lambert:** Good morning.

20 **Brenda Justice:** He's supposed to let me talk to Anita Duty this morning, because it's been five
21 months since she's been told to pay me and I haven't received anything as of yet.

22 **Butch Lambert:** Mr. Cooper, could you give us an update?

23 **Rick Cooper:** Yes. Anita is going to respond to her today. There's a couple of things going on
24 here, so I think Ms. Justice thinks CNX says she signed the lease and Ms. Justice says that she
25 didn't sign the lease. So, that's an issue they need to work out.

26 **Butch Lambert:** What does that got to do with...?

27 **Rick Cooper:** If she did sign the lease, she would have been entitled to some money, if she
28 signed a lease.

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1 **Butch Lambert:** Has she been before us for disbursement?

2 **Brenda Justice:** This makes the third time this month or in the last three months.

3 **Rick Cooper:** I'm not sure. Anita has an explanation for that but I apologize, I do not know the
4 explanation for that.

5 **Butch Lambert:** Ms. Justice, if you could give us a few minutes, until Ms. Duty comes.

6 **Brenda Justice:** Okay.

7 **Butch Lambert:** Then we'll ask her to appear before the Board and give us an explanation of
8 why you haven't been paid.

9 **Brenda Justice:** Thank you, very much. Thank you.

10 **Butch Lambert:** Thank you.

11 **Item Number 2**

12 **Butch Lambert:** And the next item on our docket is a petition from EnerVest Operating, LLC,
13 for pooling of Well No. VCI-537504. Docket Number VGOB 16-1115-4102. All parties wishing
14 to testify, please come forward.

15 **Tim Scott:** Mr. Chairman, Tim Scott, Gus Janson, and Aaron Anderson for EnerVest Operating,
16 LLC.

17 **Butch Lambert:** Good morning.

18 **Tim Scott:** Morning.

19 **Sarah Gilmer:** Do you swear and affirm your testimony is the truth, the whole truth, and nothing
20 but the truth?

21 **Tim Scott:** Yes I do.

22 **Butch Lambert:** You may proceed, Mr. Scott.

23 **Tim Scott:** Thank you, Mr. Chairman. Mr. Anderson, please state your name and by whom
24 you're employed, and your job description.

25 **Aaron Anderson:** I'm Aaron Anderson. I'm employed with EnerVest Operating, LLC as an
26 Associate Landman.

27 **Tim Scott:** You're familiar with this application, are you not?

28 **Aaron Anderson:** That's correct.

1 **Tim Scott:** And, is this unit located Nora Coalbed Gas Field?

2 **Aaron Anderson:** Yes.

3 **Tim Scott:** How many acres does it contain?

4 **Aaron Anderson:** 58.77.

5 **Tim Scott:** And, EnerVest is both a lessee and an owner in this unit, is that right?

6 **Aaron Anderson:** That's correct.

7 **Tim Scott:** Do we have any parties respondent that we're going to dismiss from Exhibit B3
8 today?

9 **Aaron Anderson:** No sir.

10 **Tim Scott:** How was notice of this hearing provided to those parties listed on Exhibit B3?

11 **Aaron Anderson:** Certified Mail with a return receipt requested.

12 **Tim Scott:** And have we provided a proof of our publication to the Board?

13 **Aaron Anderson:** Yes.

14 **Tim Scott:** Do we have any unknown owners in this unit?

15 **Aaron Anderson:** No.

16 **Tim Scott:** So we don't have an escrow. Is that right?

17 **Aaron Anderson:** That's correct.

18 **Tim Scott:** Now, EnerVest is authorized to conduct business in the Commonwealth. Is that
19 correct?

20 **Aaron Anderson:** That's correct.

21 **Tim Scott:** And there is a bond on file with the Department of Mines, Minerals, and Energy. Is
22 that correct?

23 **Aaron Anderson:** Yes.

24 **Tim Scott:** Now, if you were able to reach an agreement with the parties listed on Exhibit B3,
25 what lease terms would you offer?

26 **Aaron Anderson:** \$25 an acre for a five-year, paid-up lease.

27 **Tim Scott:** Okay. Do you consider that to be reasonable compensation for a lease in this area?

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1 **Aaron Anderson:** Yes.

2 **Tim Scott:** And, what percentage of the gas estate does EnerVest presently have under lease?

3 **Aaron Anderson:** 92.6125.

4 **Tim Scott:** And again, that does include the simple interest, is that correct?

5 **Aaron Anderson:** That's correct.

6 **Tim Scott:** And you also have the coal estate under lease. Is that correct?

7 **Aaron Anderson:** 100%. Yes, sir.

8 **Tim Scott:** And what percentage of the gas estate are you seeking to pool today?

9 **Aaron Anderson:** 7.3875.

10 **Tim Scott:** And we don't have an escrow requirement. Is that correct?

11 **Aaron Anderson:** That's correct.

12 **Tim Scott:** And you're requesting the Board to pool the unleased parties listed on Exhibit B3?

13 **Aaron Anderson:** That's correct.

14 **Tim Scott:** And that EnerVest be named the operator of this unit. Is that also correct?

15 **Aaron Anderson:** Yes.

16 **Tim Scott:** Now, if the Board grants our application today and elections are made pursuant to the
17 order, what would be the address to be used for any elections made?

18 **Aaron Anderson:** That would be EnerVest Operating, LLC. 406 West Main Street. PO Box
19 2136, Abingdon, VA 24212. Attention Chuck Akers, Land Manager.

20 **Tim Scott:** Okay, and should this be the communication for all notices, with regard to this
21 particular unit?

22 **Aaron Anderson:** Yes sir.

23 **Tim Scott:** That's all I have for Mr. Anderson.

24 **Butch Lambert:** Any questions from the Board? [No response] You may continue, Mr. Scott.

25 **Tim Scott:** Thank you. Mr. Janson, your name, by whom you're employed, and your job
26 description, please.

1 **Gus Janson:** My name is Gus Janson. I'm employed by EnerVest Operating, LLC as a Geology
2 Advisor.

3 **Tim Scott:** And you also participated in the preparation of this application, is that right?

4 **Gus Janson:** I did.

5 **Tim Scott:** Are you familiar with the proposed depth of this well?

6 **Gus Janson:** Yes, the well depth is 2,446 feet.

7 **Tim Scott:** What about the reserves for this unit?

8 **Gus Janson:** Yes. The estimated reserves for this unit are 520 million cubic feet of gas.

9 **Tim Scott:** Did you also participate in the preparation of the AFE that was submitted with our
10 application?

11 **Gus Janson:** Yes, I did.

12 **Tim Scott:** Are you familiar with the cost of this well?

13 **Gus Janson:** Yes, I am.

14 **Tim Scott:** What's the estimated dry hold cost?

15 **Gus Janson:** That estimated dry hold cost is \$197,100.00.

16 **Tim Scott:** And the completed well cost?

17 **Gus Janson:** \$395,600.00.

18 **Tim Scott:** In your opinion, if our application is granted, would it promote conservation, prevent
19 waste, and promote correlative rights?

20 **Gus Janson:** Yes it would.

21 **Tim Scott:** That's all I have for Mr. Janson.

22 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Scott?

23 **Tim Scott:** That's all I have, Mr. Chairman.

24 **Butch Lambert:** Do I have a motion?

25 **Mary Quillen:** Motion to approve.

26 **Bruce Prather:** Second.

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1 **Butch Lambert:** I have a motion and I have a second. Any further discussion? All in favor,
2 signify by saying yes.

3 **Board:** Yes.

4 **Butch Lambert:** Opposed, no. [No response]

5 **Donnie Ratliff:** I'll abstain.

6 **Butch Lambert:** One abstention, Mr. Ratliff. Thank you, Mr. Scott. That is approved.

7 **Tim Scott:** Thank you.

8 **Item Number 3**

9 **Butch Lambert:** A petition from EnerVest Operating, LLC, for pooling of Well No. VCI-
10 530435. Docket Number VGOB 16-1115-4103. All parties wishing to testify, please come
11 forward.

12 **Tim Scott:** Tim Scott, Gus Janson, and Aaron Anderson for EnerVest Operating, LLC.

13 **Butch Lambert:** You may proceed, Mr. Scott.

14 **Tim Scott:** Thank you, Mr. Chairman. Mr. Anderson, again, what's your name and what's your
15 job description?

16 **Aaron Anderson:** My name's Aaron Anderson. Employed by EnerVest Operating, LLC, as an
17 Associate Landman.

18 **Tim Scott:** And you participated in the preparation of this application. Is that correct?

19 **Aaron Anderson:** That's correct.

20 **Tim Scott:** Is this unit located in the Nora Coalbed Gas Field?

21 **Aaron Anderson:** Yes.

22 **Tim Scott:** And how many acres does it contain?

23 **Aaron Anderson:** 58.77.

24 **Tim Scott:** And with regard to ownership of this unit, EnerVest is both the lessee and an owner.
25 Is that correct?

26 **Aaron Anderson:** That is correct.

27 **Tim Scott:** Are we going to dismiss any parties' respondent listed on Exhibit B3?

1 **Aaron Anderson:** Not at this time.

2 **Tim Scott:** Are we going to dismiss any parties' respondent today?

3 **Tim Scott:** How was notice of this hearing provided?

4 **Aaron Anderson:** By publication.

5 **Tim Scott:** So we have unknowns. Is that correct?

6 **Aaron Anderson:** That's correct.

7 **Tim Scott:** And those are the only parties' respondent in this particular application. Is that
8 correct?

9 **Aaron Anderson:** That's correct.

10 **Tim Scott:** And where was the notice of this hearing published?

11 **Aaron Anderson:** The Dickenson Star, on October 26th.

12 **Tim Scott:** And you provided, to the Board, your efforts to locate these unknown parties. Is that
13 correct?

14 **Aaron Anderson:** That's correct.

15 **Tim Scott:** And again, EnerVest is authorized to conduct business within the Commonwealth, is
16 that correct?

17 **Aaron Anderson:** Yes.

18 **Tim Scott:** And there's a bond on file?

19 **Aaron Anderson:** That's correct.

20 **Tim Scott:** If you're able to find these individuals and you've offered them lease terms, what
21 would those be?

22 **Aaron Anderson:** \$25.00 an acre for a five-year, paid-up lease.

23 **Tim Scott:** Again, does this represent a reasonable compensation for a lease in this area?

24 **Aaron Anderson:** Yes sir.

25 **Tim Scott:** What percentage of the gas estate does EnerVest have under lease?

26 **Aaron Anderson:** 96.87%

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1 **Tim Scott:** And again, this does include ownership and fee of the minerals by EnerVest. Is that
2 correct?

3 **Aaron Anderson:** That's correct.

4 **Tim Scott:** And you have 100% of the coal estate under the lease?

5 **Aaron Anderson:** Correct.

6 **Tim Scott:** And what percentage of the gas estate are you seeking to pool today?

7 **Aaron Anderson:** 3.13%

8 **Tim Scott:** And we do have an escrow requirement. Is that correct?

9 **Aaron Anderson:** That's correct.

10 **Tim Scott:** Because of unknowns?

11 **Aaron Anderson:** Yes.

12 **Tim Scott:** And what tract is that?

13 **Aaron Anderson:** That would be Tract 4.

14 **Tim Scott:** Okay, so you're asking the Board to pool the unleased parties listed on Exhibit B3?

15 **Aaron Anderson:** Yes sir.

16 **Tim Scott:** And that EnerVest be named the operator of this unit?

17 **Aaron Anderson:** Yes.

18 **Tim Scott:** With regard to any elections made, if the Board approves our application today,
19 where should those communications, to whose attention and to where should those
20 communications be sent?

21 **Aaron Anderson:** That's going to be EnerVest Operating, LLC, 406 W. Main St., Abingdon,
22 VA 24212. That's attention Chuck Akers, Land Manager.

23 **Tim Scott:** And again, that should be the address for all communications for this unit or the
24 order in this matter. Is that correct?

25 **Aaron Anderson:** That is correct.

26 **Tim Scott:** That's all I have for Mr. Anderson.

27 **Butch Lambert:** Any questions from the Board? [No response] You may continue, Mr. Scott?

1 **Tim Scott:** Thank you. Mr. Janson, your name, by whom you are employed, and your job
2 description, please.

3 **Gus Janson:** My name is Gus Janson. I'm employed by EnerVest Operating, LLC, as the
4 Geology Advisor.

5 **Tim Scott:** And you participated in this application, is that right?

6 **Gus Janson:** That is correct.

7 **Tim Scott:** So you're familiar with the proposed well depth?

8 **Gus Janson:** Yes. The proposed well depth is 3,168 feet.

9 **Tim Scott:** Are you also familiar with the estimated reserves for this unit?

10 **Gus Janson:** Yes. The estimated reserves are 685 million cubic feet of gas.

11 **Tim Scott:** You participated in preparation of the AFE's. Is that correct?

12 **Gus Janson:** I did.

13 **Tim Scott:** So you're familiar with the cost of this well?

14 **Gus Janson:** Right.

15 **Tim Scott:** What's the estimated dry hole cost?

16 **Gus Janson:** The dry hold cost is \$169,700.00.

17 **Tim Scott:** And the completed well cost?

18 **Gus Janson:** \$357,900.00.

19 **Tim Scott:** So, in your opinion, if this application is granted, it would prevent waste, promote
20 conservation and protect correlative rights. Is that also correct?

21 **Gus Janson:** That is correct.

22 **Tim Scott:** That's all I have for Mr. Janson.

23 **Butch Lambert:** Mr. Janson, on your well and mine location map, I notice this well is in
24 between some workings? Are those active or not? The Lower Banner Coal Seam.

25 **Gus Janson:** I believe those are all abandoned mines works at this point in time.

26 **Butch Lambert:** Okay. Thank you. Any other questions from the Board? [No response]
27 Anything further, Mr. Scott?

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1 **Tim Scott:** That's all I have, Mr. Chairman.

2 **Butch Lambert:** Do I have a motion?

3 **Mary Quillen:** Motion to approve.

4 **Bruce Prather:** Second.

5 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All
6 in favor, signify by saying yes.

7 **Board:** Yes.

8 **Butch Lambert:** Opposed no?

9 **Donnie Ratliff:** I'll abstain, Mr. Chair.

10 **Butch Lambert:** One abstention, Mr. Ratliff. Thank you, Mr. Scott. That is approved.

11 **Tim Scott:** Thank you.

12 **Item Number 4**

13 **Butch Lambert:** A petition from EnerVest Operating, LLC, to disburse funds from the escrow
14 account for well V-702824 to the parties listed in the petition and owners in Tracts 33 and 34.
15 Docket Number VGOB 94-0719-0459-01. All parties wishing to testify, please come forward.

16 **Tim Scott:** Tim Scott and Phil Horn for EnerVest Operating.

17 **Sarah Gilmer:** Mr. Horn, do you swear and affirm your testimony is the truth, the whole truth,
18 and nothing but the truth?

19 **Phil Horn:** I do.

20 **Butch Lambert:** You may proceed.

21 **Tim Scott:** Mr. Horn, please state your name, by whom you're employed and your job
22 description.

23 **Phil Horn:** My name is Phil Horn. I'm employed by EnerVest Operating Company as a
24 contractor. Land contractor.

25 **Tim Scott:** So, with regard to this particular disbursement, you have notified the parties that are
26 going to be disbursed. Is that correct?

27 **Phil Horn:** That's correct.

28 **Tim Scott:** And you have reviewed escrow account with the escrow agent. Is that correct?

1 **Phil Horn:** That's correct.

2 **Tim Scott:** And how does that stack up with what you're going to disburse today?

3 **Phil Horn:** The bank says there's \$31.98 more than what has been deposited in the account.

4 **Tim Scott:** Okay, what is the effective date of that reconciliation?

5 **Phil Horn:** August 1, 2016...August 2016.

6 **Tim Scott:** Okay, from this point on, would there be a direct pay on this?

7 **Phil Horn:** Yes, there would.

8 **Tim Scott:** Okay, does this close out the account for this particular unit?

9 **Phil Horn:** No, it does not.

10 **Tim Scott:** Okay, so what tract does this effect?

11 **Phil Horn:** It's Tracts 33 and 34.

12 **Tim Scott:** So the remainder of those escrow accounts remain open. Is that correct?

13 **Phil Horn:** That's correct. There's several people left on Exhibit E.

14 **Tim Scott:** Okay. Very good. That's all I have for Mr. Horn.

15 **Butch Lambert:** Questions from the Board? [No response] Anything further, Mr. Scott?

16 **Tim Scott:** That's all I have, Mr. Chairman.

17 **Butch Lambert:** Do I have a motion?

18 **Mary Quillen:** Motion to approve.

19 **Bruce Prather:** Second.

20 **Butch Lambert:** Any further discussion? I have a motion and I have a second. [No response] All

21 in favor, signify by saying yes.

22 **Board:** Yes.

23 **Butch Lambert:** Opposed no? [No response]

24 **Butch Lambert:** Thank you, Mr. Scott. That is approved.

25 **Tim Scott:** Thank you.

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1 **Butch Lambert:** Mr. Cooper, I see that our parties for Item 5 are not here, I think that Mr.
2 Swartz has agreed to...

3 **Rick Cooper:** Mr. Chairman, Linda Patton and Bill Patton has requested that they be heard at 10
4 o'clock and Mr. Swartz agreed to that, if they're here by 10:00 a.m. to move that up to 10
5 o'clock.

6 **Butch Lambert:** Mr. Swartz, if you're okay with that, we'll move that one...

7 **Mark Swartz:** I'm okay with that. [Inaudible] for that hearing but they'll be here at 10:00 a.m.,
8 as well, and Anita should be here, like, in five minutes, because we were expecting the other
9 hearing to occur [Inaudible].

10 **Butch Lambert:** Okay then we'll take just a five minute break until Ms. Duty gets here.

11 **Mark Swartz:** And then we'll break from whatever...when we finish one, we can [Inaudible].

12 **Butch Lambert:** We're going to recess for about five minutes.

13 **Item Number 1**

14 **Butch Lambert:** Okay folks, it's time to go ahead and resume. I see all of our parties are here,
15 so, Ms. Justice, if you could come back up, please. Sarah, do you want to go ahead and swear
16 Ms. Duty in, please?

17 **Sarah Gilmer:** Ms. Duty, do you swear and affirm your testimony is the truth, the whole truth,
18 and nothing but the truth?

19 **Anita Duty:** Yes.

20 **Butch Lambert:** Okay, we have Ms. Justice is here again this month and she still hasn't been
21 paid. We understand that you are going to give her an explanation.

22 **Anita Duty:** There are currently pending orders with the Board, either to be paid or checks to be
23 written, or orders to be entered, or reported.

24 **Anita Duty:** No, because just recently they had a lawsuit pending was the reason they weren't
25 included and they were disputing the fact that they had signed the royalty agreement, and I guess
26 it's been two months now since the court entered the orders so that the royalty split, well, I guess
27 they didn't enter an order, but found that there was no, that the royalty splits were good. That
28 they weren't forged or anything like that, so that's been two months ago. And so, I mean, that's
29 the reason she wasn't included in the original order. And so for the past two months, we just
30 been waiting for orders to be entered or previous filing or checks to be written. Nothing pending.
31 To me, that was the status.

32 **Mary Quillen:** So what does that mean?

1 **Butch Lambert:** I'm sorry Ms. Quillen. Go ahead.

2 **Mary Quillen:** No, no, no.

3 **Butch Lambert:** No, you go ahead.

4 **Mary Quillen:** I must mean that if there's nothing pending, then what's the status of it right
5 now?

6 **Anita Duty:** I thought the orders were still pending. I mean, that is what my issue was. I don't
7 know if we have W-9's and affidavits to be turned in. Have you turned the W-9 and affidavits
8 in?

9 **Brenda Justice:** I had the lawyer turn those in from Roanoke.

10 **Anita Duty:** Which lawyer?

11 **Brenda Justice:** Cheryl, what's that lawyer's name?

12 **Anita Duty:** But you weren't part of the order. You weren't part of the order along with
13 everybody else, correct? You weren't part of that order because you had your own separate case
14 where you filed against your royalty split agreement. So you weren't part of that and I don't...

15 **Brenda Justice:** All we signed was 15 acres on the Contrary Creek and you all went and took all
16 of the 47 acres or so on 15 acre contract. We signed [Inaudible]. We haven't received anything
17 from that.

18 **Anita Duty:** You signed a generic royalty split agreement and originally you said the royalty
19 split agreement wasn't valid. Just over the past two months, you've agreed that, okay, now it is
20 valid.

21 **Brenda Justice:** No, I'm not agreeing that it's valid.

22 **Anita Duty:** But now you want to get paid.

23 **Brenda Justice:** Yeah, I want my money like the rest of them.

24 **Mark Swartz:** The answer to that is, if she disputes the royalty split agreement, she's not going
25 to be paid because we have her title now. Anita was assuming that she had changed course and
26 was now not contesting the validity of the [Inaudible] that were true we could process this
27 payment but we've got somebody else on the other side of this royalty split agreement who
28 wants to be paid according to the terms of the agreement and she's saying it's not valid. They
29 have...there's a litigation issue between them. So that is the, if that's her story, that's the answer.

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1 **Brenda Justice**: Sir, my sister, she disagrees, she got paid. My other siblings disagree and they
2 got paid, and Levin White said there's nothing we can do so at least we have to accept it and I
3 don't understand that.

4 **Anita Duty**: There were two people, yourself and Ronnie Osborne, that actually filed something
5 with the state that you're invalid.

6 **Brenda Justice**: We tried to get that fixed.

7 **Anita Duty**: That's the difference between you and everybody else. You two are the only ones in
8 the family that did that; actually filed something with the state. That's the difference. That's the
9 reason you all are still in escrow. Pending litigation or anything like that, you know, keeps up
10 from filing.

11 **Brenda Justice**: I mean, she's got it on file in Grundy and if there's nothing that we can do about
12 it, then why can she go ahead and pay us?

13 **Paul Kugelman, Jr.**: What she's saying ma'am, if I understand this right and Mark can correct
14 me if I've missed something here, because I'm not intimately familiar with it; but what it sound
15 to me like is, CNX is telling you that, at least is representing that there is some split agreement,
16 and agreement to how much you should be paid from royalty proceeds of the well, and they're
17 willing to pay you under that but you're saying the split agreement's not right.

18 **Brenda Justice**: It ain't never been right.

19 **Paul Kugelman, Jr.**: Okay, so in response to that is, what they're saying is, we don't want to
20 pay you or we can pay you because you disputing the validity of the agreement for the payment.
21 If the agreement for the payment is invalid, they have to figure out, and they don't know the
22 answer to this question and that's why they can't pay you, they have to figure out how much
23 you're supposed to be paid. Now, [Inaudible]...Mr. Chairman?

24 **Butch Lambert**: No. You.

25 **Paul Kugelman, Jr.**: Okay. Please come up and say on it. Are you all on the same lease?

26 **Ronnie Osborne**: Brothers and sisters.

27 **Paul Kugelman, Jr.**: Well, I don't think I'm taking any testimony from anybody. I'm just
28 explaining something. Anyway, so, with this disagreement about how you're supposed to be
29 paid, they're saying, well, the two options are, or actually, the three options are, pay in
30 accordance with the agreement. Which means you would have to accept the validity of the
31 agreement. I'm not saying that's what you have to do, that's just an option; or not get paid; or
32 litigate, bring a lawsuit, get the issue resolved and then whatever the court decides, that's what
33 would happen. Do I have that right, Mr. Swartz?

1 **Mark Swartz**: Right.

2 **Paul Kugelman, Jr.**: So, really where you are right now, practically, is, I just want to make sure
3 I have the facts right. I'm not in collision with Mr. Swartz, I just want to make sure I'm not
4 misrepresenting the facts to you all. I can't give you advice, I'm just trying to explain. So, I
5 mean, I would suggest you all get the leases, talk to a lawyer who know gas and oil law, not just
6 anybody, see if you can find somebody to sit down with you, explain to you more carefully what
7 your options are after reviewing the facts and then make a decision from there. If you all agree
8 that, after talking to the lawyer that, whether you all agree with it or not, if you decide that
9 accepting the lease is the best option that you have, you need to let Ms. Duty know and I suspect
10 that once that's resolved in writing, that they tell you in writing that they're okay with accepting
11 payment in accordance with the split agreement on file, that they would cut you all a check. Am I
12 right about that?

13 **Mark Swartz**: Well, we would have to come to you all to get it ordered to do that. We would
14 need a petition for that.

15 **Paul Kugelman, Jr.**: Okay. So then there has to be...I thought there was a figure...I forgot that
16 step.

17 **Mark Swartz**: It's in escrow.

18 **Paul Kugelman, Jr.**: Right, so they'd have to come back and get an order from the Board and
19 then you all would get your check. Or you can litigate it and once that's over, you all would
20 come back with whatever the court said and then the Board would be bound to disburse in
21 accordance with the court's order. I wish I could give you a "here's how you get it and you can
22 get it tomorrow", but with what I understand [Inaudible] that's the best answer I can give you. I
23 know it's not satisfactory.

24 **Brenda Justice**: No, because they're taking everything. I mean, it's not only the 15 acres.

25 **Paul Kugelman, Jr.**: This Board doesn't have the authority to make them pay you, with the way
26 things are. If there was a split agreement in place or if there was some sort of force pooling issue
27 in place, where we knew...yes sir?

28 **Ronnie Osborne**: Indiscernible 23:40

29 **Paul Kugelman, Jr.**: Oh, no, he said...he wanted to put you under oath. If you're going to offer
30 testimony, you need to put under oath, but if you just want to tell me something just for
31 information.

32 **Ronnie Osborne**: I've never disagreed with the 15 acres, the royalty split. I've never disagreed
33 on that. I've disagreed on the 16th page.

34 **Paul Kugelman, Jr.**: I'm sorry?

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1 **Ronnie Osborne**: The 16th page. I've disagreed on that.

2 **Mary Quillen**: What are you talking about?

3 **Ronnie Osborne**: On the contract.

4 **Butch Lambert**: Mr. Osborne, unfortunately, Mr. Kugelman don't know the history.

5 **Ronnie Osborne**: The four page split agreement, I've disagreed with since I've been coming out
6 here. I've never disagreed with...

7 **Paul Kugelman, Jr.**: Okay, when you say you disagree with the 16th page, I don't understand
8 what you mean by that.

9 **Anita Duty**: The lease.

10 **Paul Kugelman, Jr.**: Oh, so that's the problem though, if you disagree with and the lease is what
11 drives the payment?

12 **Anita Duty**: Well, the royalty split agreement that was signed was a generic royalty split
13 agreement that said, "whenever James McGuire, Hurt McGuire owns the coal, they agree to split
14 the royalties 50/50".

15 **Paul Kugelman, Jr.**: Right. Okay.

16 **Anita Duty**: They didn't specifically say, we want it to be the 15 acre O.H. Keene Tract, and I
17 think that's the other problem they have with us. If I recall correctly, the problem he did have is,
18 he said that somebody had forged his signature, on both documents. So, I mean, this is news to
19 me that he...

20 **Paul Kugelman, Jr.**: Let's not make this an argument sir. We'll let you talk in a minute.

21 **Anita Duty**: So I think the 16th page is the Lease and the royalty split is the other, which they
22 wanted it to be tract specific, but it wasn't.

23 **Paul Kugelman, Jr.**: Okay.

24 **Anita Duty**: And that's the other issue.

25 **Paul Kugelman, Jr.**: So there's some vagueness to the terms of the land involved. Rick, you
26 said you want...

27 **Rick Cooper**: Yeah, for the record, we need Mr. Osborne to state his name so that the transcript
28 will know who's speaking on this.

29 **Paul Kugelman, Jr.**: I appreciate that. I apologize for messing up the record. Could you please
30 state your full name for the records, sir?

1 **Donnie Osborne**: Donnie Osborne.

2 **Paul Kugelman, Jr.**: And what city and state are you from, please?

3 **Donnie Osborne**: Buchanan County, Virginia.

4 **Paul Kugelman, Jr.**: Thank you. Does that clear it up, Rick?

5 **Rick Cooper**: Yes.

6 **Paul Kugelman, Jr.**: I'm sorry. I apologize for that and I apologize to those of you who keep the
7 record. I was just kind of handling this informally. So anyway, the Board doesn't have the
8 authority to make them pay you, under the circumstances that we have here, and if you disagree
9 with the way the lease is, you know, for whatever reason, if you have a problem with the lease
10 and you're telling them you have a problem with the lease...[interruption]let me finish and I'll
11 let you...then they can't pay you. If you think, regardless of whether you have a problem with
12 the lease, if you agree with getting payment under the lease as your best option and you're okay
13 with that, you need to tell them you accept that. They will petition this Board for a check or you
14 can talk to a lawyer and see what your best options are. Thank you for letting me [Inaudible].

15 **Donnie Osborne**: She said that I said that somebody forged. I ain't never said nobody forged.

16 **Paul Kugelman, Jr.**: Okay.

17 **Donnie Osborne**: I said my name got somewhere and how did it get there. I asked the Board, I
18 asked Leven White, I've asked everybody, how did my name get there? How did my name get
19 there?

20 **Paul Kugelman, Jr.**: Okay, and I appreciate what you're saying, and I understand.

21 **Donnie Osborne**: I ain't accused nobody of nothing. I just...

22 **Paul Kugelman, Jr.**: And nobody up here is saying you did.

23 **Donnie Osborne**: That's what she said.

24 **Paul Kugelman, Jr.**: They're not up here.

25 **Mark Swartz**: No, we're saying that.

26 **Paul Kugelman, Jr.**: Right.

27 **Mark Swartz**: When you say, "I don't know how my name got on that document"...

28 **Paul Kugelman, Jr.**: I appreciate that. I do. I think you understand where I am. Nobody up here
29 is accusing anybody of anything, but if you all want to get paid, those are the options that I
30 believe you have. But again, I cannot represent you, I cannot provide you with legal advice.

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- 1 **Ronnie Osborne**: I understand that.
- 2 **Paul Kugelman, Jr.**: But I'm just trying to be helpful and let you all know, that the best I
3 understand where they are and what your options are.
- 4 **Ronnie Osborne**: I understand that. I've just been asking how it got there.
- 5 **Paul Kugelman, Jr.**: And that's something you should probably, if you go to a lawyer, you
6 should probably get answered.
- 7 **Ronnie Osborne**: I ain't worried about no lawyer.
- 8 **Brenda Justice**: Aint no way we can get no lawyer.
- 9 **Ronnie Osborne**: I ain't worried about no lawyer. I ain't worried about nothing. I won't be back
10 no more.
- 11 **Mary Quillen**: Anita, you mentioned a title conflict.
- 12 **Anita Duty**: Well, I think Mark had mentioned that because if they don't agree, now originally I
13 thought we had pending orders but there is a second issue. The issue that they have with their
14 royalty split. They want it to only apply to one tract and that's not how it's written.
- 15 **Bruce Prather**: How much acreage is on the split agreement? Is it 15 or 45?
- 16 **Anita Duty**: I'm sorry?
- 17 **Paul Kugelman, Jr.**: How may acres is on the split agreement?
- 18 **Anita Duty**: The split agreement says in any case where James McGuire, Hurt McGuire owns
19 the coal, and each of those individuals owns the gas, we agree to split it 50/50. It doesn't say on
20 the 15 acre O.H. Keen tract, we decided to split.
- 21 **Bruce Prather**: That's where your mistake is.
- 22 **Anita Duty**: That's the problem. It's a generic agreement.
- 23 **Bruce Prather**: It should have been in the split agreement.
- 24 **Mark Swartz**: And there two different interpretations of that, that's a title conflict. I mean, one
25 person says it applies to everything and the other person is saying it doesn't.
- 26 **Mary Quillen**: The split agreement has been signed by both Hurt McGuire and coal owner, I
27 mean the gas owners.
- 28 **Anita Duty**: I think in '98 maybe [Inaudible].
- 29 **Bruce Prather**: That's your problem.

1 **Mark Swartz**: Yes.

2 **Anita Duty**: They have a Linkous Horne Tract and they have an O.H. Keen Tract.

3 **Mary Quillen**: Right. Yes.

4 **Anita Duty**: They wanted to apply only to the O.H. Keen Tract but that's not what the agreement
5 says. Intent is different than what's actually in writing.

6 **Mary Quillen**: And those are signed?

7 **Anita Duty**: Yes. By both parties.

8 **Ronnie Osborne**: We've got brothers and sisters that done the same thing. They got their
9 money. Me and my sister here talked to Levin White. We didn't get no checks and the rest of
10 them did.

11 **Anita Duty**: But that's the reason. Whenever there's a pending litigation or there's any reason
12 for us...

13 **Ronnie Osborne**: There ain't no litigation.

14 **Mark Swartz**: You're saying it's not valid.

15 **Ronnie Osborne**: Levin White said...

16 **Mark Swartz**: You're coming to the Board and you're telling them it's not valid. How can we
17 pay? That's the problem. We've been having this discussion for 20 years.

18 **Paul Kugelman, Jr.**: I appreciate that you're frustrated, Mr. Swartz.

19 **Ronnie Osborne**: I won't be back. I won't be back. Thank you.

20 **Paul Kugelman, Jr.**: Yes sir. Mr. Swartz, do you, off the top of your head, know the basis of her
21 objection to the split agreement? Is it just that she doesn't like the term.

22 **Mark Swartz**: Her objection was that her signature on the document was forged. If I'm not
23 mistaken, she went to AG of the Commonwealth who investigated that and pursued that. So
24 there was an allegation of forgery.

25 **Paul Kugelman, Jr.**: Okay.

26 **Mark Swartz**: The AG then, now this is Indiscernible 31:10

27 **Paul Kugelman, Jr.**: I'm just trying to get an understanding of the basis for the objection. That's
28 really all I needed to know.

29 **Mark Swartz**: Well, that was the first part. Apparently they determined because there's more.

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1 **Paul Kugelman, Jr.**: They both basically said that they're forged. They're saying that they're
2 forged on the split agreement. I'm just saying, that's what they're saying.

3 **Mark Swartz**: And that went to, the Commonwealth intervened and looked into that and
4 concluded that it did not appear to be a forgery.

5 **Paul Kugelman, Jr.**: Okay.

6 **Mark Swartz**: At which point, they are now saying it's still not valid.

7 **Paul Kugelman, Jr.**: Okay.

8 **Mark Swartz**: Okay, and I guess they're still saying it was a forgery.

9 **Paul Kugelman, Jr.**: Have they submitted W-9's?

10 **Anita Duty**: She was not party to... we have not asked them for W-9's.

11 **Mark Swartz**: Because...

12 **Anita Duty**: Because of the pending, and they were not party to the suit that their siblings were
13 involved with. Their siblings had an attorney from Roanoke that came and represented them.

14 **Rick Cooper**: So their ownership here depends on their mother side or their father's side.
15 There's two different properties here that they talk about; O.H. Keen and Linkous Horne. Their
16 belief is that they signed off on one half of that party, not all of it. That is their main standing
17 now. They are saying they signed off of that O.H. Keen but not the Linkous Horn portion. But
18 the lease itself, is not.

19 **Mark Swartz**: The agreement is generic. It's everything.

20 **Paul Kugelman, Jr.**: Right. I mean, I get that. I don't understand the...

21 **Anita Duty**: I think you've probably even got copies of them before where I've sent them to
22 you. So, and there's several reasons why we haven't petitioned to have them paid, but still, they
23 want to know why.

24 **Mary Quillen**: Oh, yeah. I see now.

25 **Item Number 6**

26 **Butch Lambert**: We're moving on. We're calling Docket Item 6. A petition from CNX Gas
27 Company, LLC, for (1) Modification of the Middle Ridge I Coalbed Methane Gas Field Rule
28 Order VGOB 00-1017-0835-12. All parties wishing to testify, please come forward.

29 **Mark Swartz**: Mark Swartz and Anita Duty.

1 **Butch Lambert:** You may proceed, Mr. Swartz.

2 **Mark Swartz:** Thank you. Anita, would you state your name for us, please?

3 **Anita Duty:** Anita Duty.

4 **Mark Swartz:** Are you on behalf of the applicant CNX Gas Company, LLC, with regard to this
5 petition?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And basically, what we're seeking to do here is add one unit to the area in the
8 Middle Ridge Field where the operator drilled more than one well. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And that unit that we're seeking to add is AW147?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And you've given the Board a map today?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And there's sort of, is this here with the yellow on the North and the other colors
15 to the South. Is that, essentially, the division between the Oakwood Field to the North and the
16 Middle Ridge Field to the South?

17 **Anita Duty:** It is.

18 **Mark Swartz:** Okay. And the colored pieces of the Middle Ridge Field over here, the blue, the
19 orange, the couple shades of orange, and the yellow, are those within the Middle Ridge Field that
20 have been modified to allow a second well to be drilled.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Okay. And we're seeking to add the well that's colored purple. Correct?

23 **Anita Duty:** Correct.

24 **Mark Swartz:** And for some reason or other, we missed that before and we're just back to fill in
25 that gap?

26 **Anita Duty:** Correct.

27 **Mary Quillen:** Is that the AW147.

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1 **Mark Swartz:** AW147.

2 **Mark Quillen:** Okay, okay. Gotcha.

3 **Mark Swartz:** And that in a nutshell is what we're seeking. The relief that we're seeking on this
4 particular petition?

5 **Anita Duty:** It is.

6 **Mark Swartz:** And when you're doing these kinds of field rule petitions, we need to give a
7 coordinates description, not just a unit description and then, have you done that in Paragraph 7?

8 **Anita Duty:** We have.

9 **Mark Swartz:** Okay. And did you notify people interested in the outcome by mailing here?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** When did you do that?

12 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested on October 14, 2016.

13 **Mark Swartz:** Okay, and some of the people that you mailed to, did not either claim their mail
14 or did not get notice by mail. Correct?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And did you also publish?

17 **Anita Duty:** We did.

18 **Mark Swartz:** Okay, and how did you do that?

19 **Anita Duty:** We published the notice and location map in the Bluefield Daily Telegraph on
20 October 20, 2016.

21 **Mark Swartz:** And have you filed your proofs, with regard to publication and with regard to
22 mailing, online with the Board?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** That's all I have, Mr. Chairman.

25 **Butch Lambert:** Ms. Duty, on your mailing list, you have Benson heirs and you have in red,
26 DOC Pending on heirs. Could you tell us what that means?

1 **Anita Duty:** There's still an outstanding request on the heirs.

2 **Mark Swartz:** For documentation.

3 **Anita Duty:** For documentation. Not that we don't know who they are, we just need somebody
4 to fill out information so we can have it recorded.

5 **Butch Lambert:** So they didn't get notice?

6 **Anita Duty:** They did. We just don't have a recordable document to put on record. We know
7 who they are, we just need one of them to fill out the forms so we can have it recorded.

8 **Butch Lambert:** I didn't check your proof over here, but do you have proof that they received
9 it? They received notice? And they're upside down, I can't see.

10 **Anita Duty:** The only heir of Lawrence Stinson is Lena Stinson. She did receive her mail. Is that
11 who you were asking about? Lawrence Stinson's heirs.

12 **Butch Lambert:** Yes.

13 **Mark Swartz:** You see about four up from the bottom, there's a Lena Stinson.

14 **Butch Lambert:** Mine are upside down, I can't read them.

15 **Mark Swartz:** Okay, four down from the top, then [laughs]. Upside down.

16 **Anita Duty:** She signed for her mail on October 18th.

17 **Butch Lambert:** So does that need revised? That they were noticed?

18 **Anita Duty:** At the time, we probably didn't know who they were but by the time we did the...I
19 don't know why it says unknown heirs. I don't know why we did that. No, I know what this is.
20 She refused, okay, this is the one where Lena Stinson is actually, the property was in hers and
21 Lawrence's name together, and so we know that she owns 50% of it. The other 50%, we cannot
22 get her to fill out an affidavit of heirship saying that she would get the other 50%. So Lawrence
23 Stinson heir is Lena Stinson, but the own the property as joint tenants. She refusing to fill out
24 paperwork to prove her other 50%.

25 **Mark Swartz:** So transferring that into legal, she's telling you that we have one heir who signed
26 for the mail, who refuses to sign paperwork that we could record to document that she picked up
27 the other 50% in the heirship. So we've got the one person that we need to get.

28 **Anita Duty:** So the property was joint tenants, they own it 50%, each. It was deeded to them
29 50/50. Correct? It was deeded to them 50/50, and so whenever he dies, she automatically has her
30 50% already. When he passes away, she would get his 50%, but she refuses to sign

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1 documentation to provide any kind of documents for us to go ahead and say she's the heir. So
2 that's why we say unknown. Even though we know who it is, she just won't give us anything to
3 put on record.

4 **Mary Quillen:** Is she the wife or the daughter of this man?

5 **Anita Duty:** The wife.

6 **Mary Quillen:** The wife. Okay.

7 **Anita Duty:** The property, we know she owns at least 50% of it.

8 **Bruce Prather:** Did she ever give you reasons why?

9 **Mary Quillen:** And this is 12/100 of an acre?

10 **Mark Swartz:** Annie. Do you want to come up here? Probably not. [Inaudible]. Is your
11 information the same that Anita has provided?

12 **Anita Duty:** She actually told me. I remember.

13 **Mark Swartz:** Okay.

14 **Butch Lambert:** She received notice?

15 **Anita Duty:** She received notice. At the end of the day, the only heir of Lawrence Stinson
16 received notice.

17 **Donnie Ratliff:** The only reason we're having this discussion is because of your personal notes.

18 **Anita Duty:** Yeah, that's the way it was provided to us. That it's 50% Lena Stinson and 50%
19 unknown heirs of Lena Stinson, even though we do know that Lena is the heir. She just won't
20 provide documentation. So maybe instead of saying "unknown heirs of Lawrence Stinson", just
21 say Lena Stinson and documentation pending on 50%.

22 **Donnie Ratliff:** And there's four that's just listed return, with no date.

23 **Anita Duty:** She signed for it on 10/18/16.

24 **Donnie Ratliff:** And there's four others?

25 **Mark Swartz:** There's four others, right, and we published on those.

1 **Paul Kugelman, Jr.:** So, just to help me out here with this. I need to get better on my wills,
2 estates, but apparently, okay, so, has anybody gone to the courthouse to see what the will says or
3 whether. What are you all missing to be able to prove [Inaudible] to give her the money?

4 **Mary Quillen:** Anita, did he have a will, claiming her?

5 **Mark Swartz:** He had an affidavit of heirship.

6 **Paul Kugelman, Jr.:** Okay, so, that's it. He had an affidavit of heirship. She declines to provide
7 that.

8 **Mark Swartz:** And we're pooling this today and the title is shown on the exhibits. So you'll see
9 exactly what we're talking about.

10 **Butch Lambert:** Any questions from the Board, for the record? [No response] Anything further,
11 Mr. Swartz?

12 **Mark Swartz:** Other than, let's not describe stuff that way anymore.

13 **Butch Lambert:** Mr. Prather?

14 **Bruce Prather:** I forget what I was going to ask you now.

15 **Butch Lambert:** Mr. Prather had a question.

16 **Mark Swartz:** Okay.

17 **Mary Quillen:** If he died without a will, then this was settled in the courts, that these heirs.
18 Wouldn't those court documents identify her as the heir.

19 **Mark Swartz:** You don't have to prorate an estate. That's the problem. So, we need an affidavit
20 of heirship, which says, he was my husband; he died; either, we own this as jointly, tenants in
21 common, or we owned it as tenants in common without a survivorship, but, I survived and she
22 won't do an affidavit of heirship that we can record.

23 **Mary Quillen:** Okay. That's my mistake. I was not aware that Virginia does not have probate?

24 **Mark Swartz:** It's true pretty much. I've practiced law in a lot of states so for the four or five
25 states that I practiced in, none of them require you to probate an estate. I mean, in theory you
26 should, but people, there's tons of families that have real estate that's never really been handled
27 in the courthouse on death. But it's a problem we have all the time.

28 **Mary Quillen:** Having just gone through this recently, at this all went through the court, I
29 assumed. That was my mistake by assuming.

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1 **Mark Swartz:** There are probably more people that don't do that than do. And ultimately,
2 eventually, you'd need to straighten this stuff out, but often, it's years later.

3 **Mary Quillen:** Yeah. Thank you. I learned something today. I did not know that.

4 **Mark Swartz:** That's part of the problem we have with heirships. You know, if there's no
5 courthouse record of what happened then grandpa dies.

6 **Butch Lambert:** Just on another note, I noticed you have White Wolf Energy that was returned.

7 **Mark Swartz:** I've got that address right here.

8 **Butch Lambert:** We had a better address than that.

9 **Anita Duty:** We actually sent it to that address and we got the proof where they signed it
10 yesterday. Signed for it yesterday. And I can forward that on, we'll upload the affidavit.

11 **Butch Lambert:** Okay.

12 **Anita Duty:** We emailed it to them but I think we were told that wasn't good proof, so we
13 emailed and re-mailed, and they actually accepted both, so.

14 **Butch Lambert:** Did you give them, Mr. Cooper, did you...?

15 **Rick Cooper:** I did give that to Mr. Swartz.

16 **Butch Lambert:** Okay, so that's the address we have on file at our office for those folks.

17 **Mark Swartz:** That's it, yes.

18 **Butch Lambert:** They seem to pick up their mail at that address. Any other questions from the
19 Board? Anything further, Mr. Swartz?

20 **Mark Swartz:** No.

21 **Donnie Ratliff:** This is not the entire Middle Ridge Field? This is just those...

22 **Mark Swartz:** It's just the one unit.

23 **Anita Duty:** One unit.

24 **Donnie Ratliff:** That's effected by this docket number, right?

25 **Mark Swartz:** It's the purple...

26 **Donnie Ratliff:** 0835

1 **Mark Swartz:** 147 actually.
2 **Mary Quillen:** This one right here, Donnie.
3 **Mark Swartz:** It's the purple.
4 **Donnie Ratliff:** Okay.
5 **Butch Lambert:** Anything further, Mr. Swartz?
6 **Mark Swartz:** No.
7 **Butch Lambert:** Do I have a motion?
8 **Donnie Ratliff:** Motion to approve, Mr. Chair.
9 **Mary Quillen:** Second.
10 **Butch Lambert:** I have a motion and a second. Any further discussion? All in favor, signify by
11 saying yes.
12 **Board:** Yes.
13 **Butch Lambert:** Opposed, no? [No response] Okay, Mr. Swartz, that is approved.

14 **Item Number 5**

15 **Butch Lambert:** A petition from DGO - on behalf of others for Bill Patton and Linda Patton,
16 appealing the decision of the Director issued on October 20, 2016, for Informal Fact Finding
17 Hearing 245, regarding an application from CNX Gas Company, LLC, for proposed well T54
18 with pipeline, located in the Maiden Spring Magisterial District. This is Docket Number VGOB
19 16-1115-4104. All parties wishing to testify, please come forward.

20 **Mary Quillen:** Could you give us just a couple of minutes? It's loading.

21 **Butch Lambert:** Oh, yes ma'am.

22 **Sarah Gilmer:** Do you swear and affirm your testimony is the truth, the whole truth, and nothing
23 but the truth?

24 **Bill/Linda Patton:** Yes.

25 **Butch Lambert:** Is it loading?

26 **Mary Quillen:** I can't, I mean, it's not loading.

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1 **Rick Cooper:** It's 170 pages.

2 **Mary Quillen:** I know, I had it loaded and then had to go to the next item, and now it's just
3 continuing to try to reload. Okay. Okay.

4 **Butch Lambert:** You ready.

5 **Mary Quillen:** As soon as I get to that page. Okay. Got it. Sorry about that.

6 **Butch Lambert:** That's alright. The Docket Item has been called so, Mr. Cooper, if you'll go
7 ahead and give us a kind of synopsis of your decision.

8 **Rick Cooper:** Yes. This application came in, and at CNX's request, they asked for some
9 additional time to work with the objecting parties. There were other objecting parties other than
10 being Linda Patton and Bill Patton, and eventually, that time expired, so we had the hearing on
11 9/20/2016, and we had the hearing and the discussion was: (1) they objected to the operations
12 plan for sediment and erosion control was not adequate and I could not determine in no
13 testimony, determine that that was actually accurate. So I ruled against that; (2) Measures, in
14 addition to the requirement for well's water protection string are necessary to protect fresh water
15 bearing strata. No testimony in the application that was submitted, there's 352 feet of 7 inch
16 casing cemented to the surface. There's 2,370 feet of 4 ½ inch cemented to the surface. And with
17 that, I could see no reason to, I denied that objection; (3) And also, another objection that would
18 constitute a hazard or safety to any people there is no evidence brought forward that it would
19 create any hazard to any people, so I ruled against that; (4) And the location of a coalbed
20 methane well or pipeline will unreasonable infringe on the surface owners property, there is no
21 evidence brought forward to back that objection up, so I ruled against that one; (5) and also,
22 directly infringes upon a royalty owners oil and gas interest threatens to violate the objecting
23 royalty owners property or statutory rights and would not adequately prevent the escape of the
24 Commonwealth's gas and oil. And with that, I ruled against those three. The Board has pooled
25 this well and also, I believe, that evidence was brought forth that Mr. Bill Patton and Ms. Linda
26 Patton, had signed a lease agreement to allow this to occur on their property. And so with that, I
27 ruled against that and the decision was to move forward and approve the permit. Then, an
28 objection came in. So, that's where we are today.

29 **Bruce Prather:** Rick, did the 7 inch cover their water aquifer?

30 **Rick Cooper:** Yes.

31 **Bruce Prather:** Okay.

32 **Butch Lambert:** Rick, do you have up the docket item on your computer?

33 **Rick Cooper:** I do.

1 **Butch Lambert:** Can you go to, well, it's Page 156. It's a photograph. I think it's the next to the
2 last or third from the last page. It's a photograph, an aerial photograph, showing joint houses in a
3 wooded area to the West.

4 **Rick Cooper:** Yes.

5 **Butch Lambert:** The pictures good on our screen or on my screen. Can you tell us a little bit
6 about that picture?

7 **Rick Cooper:** The well would be over to the left in that area that shows no houses, just about in
8 the center of that photo. Do you see the road that bends around, like a 90 degree turn, then you
9 see that area on in the left corner; the well is almost in the center of that particular spot there.

10 **Butch Lambert:** If you look at that coming in from the North toward the Southeast, looks like
11 maybe a road coming in?

12 **Rick Cooper:** There is a pre-existing road there and also, in regard to that, there is a pre-existing
13 road in the pipeline that is actually being added to this well is following a pre-existing to another
14 well site.

15 **Butch Lambert:** About the end of that, where that road is, is where the well's proposed?

16 **Rick Cooper:** It's real close to that spot, yes.

17 **Butch Lambert:** And, can you tell us where the Patton's house is located in this picture?

18 **Rick Cooper:** I believe their house would be, I guess I'd ask Ms. Patton there, but I believe she
19 is the one to the right there.

20 **Butch Lambert:** To the right?

21 **Rick Cooper:** No, actually, scroll up to the top, there is a little road that turns off left-handed.
22 See the road that turns off?

23 **Butch Lambert:** Could you show the Patton's that?

24 **Rick Cooper:** Yeah, it turns off left-handed to the house on the left.

25 **Butch Lambert:** Mr. and Ms. Patton, can you identify where your house is located?

26 **Bruce Prather:** Rick, what's the difference between the well and their water well?

27 **Rick Cooper:** More than 400 feet. This is them, right here.

28 **Butch Lambert:** Okay, thank you.

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1 **Bruce Prather:** And that well was drilled with detergent?

2 **Rick Cooper:** They'll have to speak on behalf of the well, to be very honest, Mr. Prather.

3 **Bruce Prather:** Okay.

4 **Butch Lambert:** Mr. Prather, you have a question for the Patton's? Go ahead.

5 **Mary Quillen:** He was just asking how far the well was.

6 **Bruce Prather:** How far the well is from their water well and was it drilled with mud or drilled
7 with detergent?

8 **Rick Cooper:** Their water well? I'm not sure.

9 **Bruce Prather:** Not their water well, the...

10 **Rick Cooper:** The well has not been drilled yet. This is an active proposed well.

11 **Bruce Prather:** Oh, okay, okay.

12 **Butch Lambert:** Any questions from the Board regarding the decision before I ask Mr. and Ms.
13 Patton? [No response] Okay, Mr. Patton, are you going to speak for both of them?

14 **Bill Patton:** Can I show you some pictures here?

15 **Butch Lambert:** Yes sir. We have that picture, actually, Mr. Patton.

16 **Bill Patton:** You have all these?

17 **Rick Cooper:** They do. I included those pictures in the package.

18 **Mark Swartz:** Object to all of these photos as not having been offered during the prior hearing
19 and that Mr. Cooper did not have the benefit of these. They were not discussed. The Board rules
20 and the code provision and appeals says if you don't raise it in front of the hearing examiner and
21 you get a decision, you can't go back and offer additional evidence that he didn't have when he
22 made his decision. So I'm objecting.

23 **Paul Kugelman, Jr.:** Can I go ahead and have a look at them, Mr. Patton? And I am subject to
24 your objection.

25 **Bill Patton:** And the picture they took of all the weeds said there was no houses to be shown,
26 when actually, if they put a well, these trees are going to be taken down. Even through the trees,
27 you can see the homes.

1 **Paul Kugelman, Jr.:** If these were admitted, you would be offering to show that the view would
2 be changed?

3 **Bill Patton:** Definitely.

4 **Paul Kugelman, Jr.:** I mean, is that why you are offering them up?

5 **Bill Patton:** All reasons.

6 **Paul Kugelman, Jr.:** Okay, and what do you mean by all reasons? When you say all reasons.
7 I'm just asking you what the purpose, the Board is not accepting these in, but I want to have an
8 opportunity for you to put on the record why you're offering the photographs?

9 **Bill Patton:** Well, I'm showing you these because these counteract those others. Those others
10 don't even show that.

11 **Paul Kugelman, Jr.:** Okay. Alright. But you had the opportunity to present these pictures
12 before.

13 **Bill Patton:** No, I didn't.

14 **Paul Kugelman, Jr.:** Why not?

15 **Bill Patton:** I didn't have them.

16 **Paul Kugelman, Jr.:** But you could have taken them before.

17 **Bill Patton:** Look, I didn't know, Look, I've never been before a firing squad like this before.

18 **Paul Kugelman, Jr.:** Sir, his is not a firing squad, it's a Board.

19 **Bill Patton:** I didn't know the procedures or anything like that.

20 **Paul Kugelman, Jr.:** I understand you don't know the procedures, but I just want to make sure I
21 understand factual background. Nobody's sharp shooting you. I'm just trying to understand.

22 **Bill Patton:** I'm just trying to make my points, too.

23 **Paul Kugelman, Jr.:** Alright, but I appreciate what you're saying. So you had the opportunity to
24 take these before you went to Mr. Cooper, but you didn't because you didn't know...

25 **Paul Kugelman, Jr.:** Okay, that's what I needed to know. Thank you, sir.

26 **Bill Patton:** You don't need to see these?

27 **Butch Lambert:** No sir. We can't accept them.

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- 1 **Bill Patton:** None of that?
- 2 **Butch Lambert:** No sir. Mr. Patton, we'll hear your arguments at this time.
- 3 **Bill Patton:** I'm sorry, what?
- 4 **Butch Lambert:** We'll hear your testimony at this point.
- 5 **Bill Patton:** Well, right here it is.
- 6 **Paul Kugelman, Jr.:** You're entire testimony was the pictures?
- 7 **Linda Patton:** To show how the land has changed.
- 8 **Paul Kugelman, Jr.:** Do you want to explain to the Board why you believe Mr. Cooper's
9 decision is wrong? Because that's really what this is about.
- 10 **Bill Patton:** Really, we didn't want a well right in the front door. Not only our house but the
11 farmers and I know the farmers have ties down here and all, so.
- 12 **Paul Kugelman, Jr.:** This is your opportunity to fully explain to this Board why you believe Mr.
13 Cooper's decision is wrong. If that's, and I'm not saying you have to make it longer or say
14 something you shouldn't say, but this is it. This is your opportunity for today. Is that the nature
15 and extent of your argument, that's everything you have to say about it?
- 16 **Bill Patton:** What else can I say? I mean, it's, the way everybody feels, it's done.
- 17 **Mary Quillen:** Mr. Chairman, may I ask a question?
- 18 **Butch Lambert:** Ms. Quillen.
- 19 **Mary Quillen:** Did you sign a lease with CNX?
- 20 **Bill Patton:** Back years ago. We didn't know what was going on or anything.
- 21 **Linda Patton:** We thought it was that one time.
- 22 **Bruce Prather:** You got the property with a prior lease on it?
- 23 **Bill Patton:** Do what?
- 24 **Bruce Prather:** Did you obtain the property that had a prior lease on it?
- 25 **Rick Cooper:** For the record, Mr. Prather, the leases that they signed start at Page 106. Their
26 leases are contained in this decision.

1 **Bruce Prather:** If they signed a lease, then the lease has dictated was CNX is going to do on the
2 property, to some extent.

3 **Butch Lambert:** Mr. Ratliff.

4 **Donnie Ratliff:** The pictures we have, where did they come from?

5 **Rick Cooper:** CNX provided those during testimony.

6 **Butch Lambert:** Ms. Quillen, I know you have it up, if you can look at Page 106.

7 **Mary Quillen:** Okay. This lease was signed in 2006. Ten years ago.

8 **Butch Lambert:** Yes, so if you look at the bottom of that page, right under the [Inaudible],
9 where there's some underlined language, if you could share that with Mr. Prather, I think that's
10 some important...

11 **Mary Quillen:** Right.

12 **Butch Lambert:** And on Page 107 too, there's some important language.

13 **Mary Quillen:** Together with any and all rights necessary or convenient to develop, produce,
14 market, and sale, said oil and gas, including, but not limited to the exclusive rights of exploring,
15 drilling, producing, gathering, transporting, storing, and selling the oil and gas. The rights to
16 construct and maintain all pipelines, tanks, structures, and utility lines that lease may deem
17 necessary and convenient for the production and/or transportation of oil or gas from this and
18 other lands held by the lessees or any of its affiliates to inject under pressure air, gas, water,
19 brine, and other fluids from any source into the subsurface strata and any and all rights and
20 privileges necessary.

21 **Butch Lambert:** Okay. Those were leases that we have before us that are signed by Mr. and
22 Mrs. Patton and so, Mr. Patton, we can't undo your lease. We're sorry but there's nothing we can
23 do with the lease that you've signed.

24 **Bruce Prather:** Did you try to negotiate with CNX to see if this well could be moved someplace
25 else?

26 **Bill Patton:** We objected to where the site of the well was.

27 **Bruce Prather:** I know you objected. I'm saying, they've got the lease on your property, were I
28 in your position, I would have gone to them and asked them if there is any leeway they had on
29 where the location of that well was to fit their drilling system. I mean, that's what I would have
30 done.

31 **Bill Patton:** The well's been moved once. I think it was moved two feet.

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- 1 **Bruce Prather:** Okay.
- 2 **Mary Quillen:** And it looks like on this lease, Mr. Patton, you are the only person that signed it.
3 Ms. Patton did not sign it.
- 4 **Rick Cooper:** No, so Linda Patton starts on Page 122.
- 5 **Mary Quillen:** Oh, is it, okay. I just didn't get that far. Oh yes, you're right.
- 6 **Rick Cooper:** So this is brother and sister.
- 7 **Mary Quillen:** Oh, okay.
- 8 **Butch Lambert:** Mr. Patton, is there anything additional that you or Ms. Patton want, any
9 information you want to provide to this Board?
- 10 **Bill Patton:** Not if it can't be heard, then no.
- 11 **Linda Patton:** Since you wouldn't look at the pictures, another concern of mine was the
12 maintaining of the road, to the one that's already there.
- 13 **Mary Quillen:** Yeah, we do have your signature on this.
- 14 **Butch Lambert:** We have. We will make sure that Mr. Cooper and his inspectors see to it that
15 that road is maintained properly for you.
- 16 **Rick Cooper:** Yes sir.
- 17 **Butch Lambert:** So if there's any problems with the road in any condition that it gets in, I would
18 ask that you call Mr. Cooper and we'll have an inspector out there to make sure that road is
19 maintained. Do I have a motion from the Board?
- 20 **Donnie Ratliff:** I make a motion that we affirm the director's decision.
- 21 **Mary Quillen:** Second.
- 22 **Butch Lambert:** I have a motion and I have a second. All in favor, signify by saying yes.
- 23 **Board:** Yes.
- 24 **Butch Lambert:** Opposed, no? [No response] Thank you, folks.

Item Number 7

Butch Lambert: A petition from CNX Gas Company, LLC, for pooling of Oakwood Coalbed Methane Gas Field I. Unit Y46. Docket Number VGOB 16-1115-409. All parties wishing to testify, please come forward.

Mark Swartz: Mark Swartz and Anita Duty.

Butch Lambert: You may proceed, Mr. Swartz.

Mark Swartz: Thank you. State your name for us again, Anita.

Anita Duty: Anita Duty.

Mark Swartz: Who do you work for?

Anita Duty: CNX Land, LLC.

Mark Swartz: Are you here on behalf of the applicant, CNX Gas Company, LLC today?

Anita Duty: Yes.

Mark Swartz: And this is an application to pool a unit, correct?

Anita Duty: Yes.

Mark Swartz: And it's in the Oakwood I Field?

Anita Duty: Yes.

Mark Swartz: Is it an 80 acre unit?

Anita Duty: It is.

Mark Swartz: Okay. What did you do to tell people we were going to have a hearing today?

Anita Duty: We mailed by Certified Mail, Return Receipt Requested on October 14, 2016. Published the Notice and Location Maps in the Bluefield Daily Telegraph on October 20th.

Mark Swartz: Have you filed your proof of publication and your certifications, with regard to notice online to the E-File system?

Anita Duty: Yes.

Mark Swartz: The applicant, CNX Gas Company, would also be the operator if this applications approved, correct?

Anita Duty: It would.

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1 **Mark Swartz:** With regard to that, is it true that CNX Gas Company, LLC is a Virginia Limited
2 Liability company?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Who's authorized to do business in the Commonwealth?

5 **Anita Duty:** It is.

6 **Mark Swartz:** Is it true that it's registered with the DGO, as an oil and gas operator?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And is it also true that it has a blanket bond on file, with regard to its plugging
9 and reclamation activities?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Or obligations, I should say.

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay. Have you identified in your paper, your notice, and your pooling
14 application, the people that are respondents that you are seeking to force pool?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And there are two of them?

17 **Anita Duty:** There is.

18 **Mark Swartz:** Okay, and do you want to dismiss either of these respondents?

19 **Anita Duty:** No.

20 **Mark Swartz:** Do you want to add anybody else as a respondent?

21 **Anita Duty:** No.

22 **Mark Swartz:** Okay. There is attached, a plat map, I believe?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And if we look at that, it shows 80 acre Oakwood Unit and it shows a drilling
25 window in that unit, correct?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And it shows Y46A within the drilling window and Y46 outside the drilling
2 window just east of the west boundary of the unit, correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Now are both of those wells proposed to be frack wells?

5 **Anita Duty:** They are.

6 **Mark Swartz:** Have either of them been drilled yet?

7 **Anita Duty:** No.

8 **Mark Swartz:** Have they been permitted yet?

9 **Anita Duty:** No.

10 **Mark Swartz:** Have you provided cost estimates with regard to those wells?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Those are at 12 and 13 of the pdf and the cost estimates are, actually they're
13 pretty similar locations apparently because the cost estimates, I think, are the same, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay, and what is the cost estimate for each of those wells?

16 **Anita Duty:** \$335,237.

17 **Mark Swartz:** And that includes the frack?

18 **Anita Duty:** It does.

19 **Mark Swartz:** Is it your opinion that developing this particular 80 acre Oakwood Unit by
20 drilling two frack wells, this is a reasonable way to develop the Coalbed Methane resource
21 within the unit?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Have you provided, I don't see an Exhibit E, so it's looks like there is no
24 requirement for escrow in this unit?

25 **Anita Duty:** Correct.

26 **Mark Swartz:** So if it's pooled, people would be paid either according to the pooling order or
27 according to their individual agreements with the operator?

]

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay, and in that regard, what has been the least terms that you've been offering
3 to people that you have actually succeeded in leasing?

4 **Anita Duty:** \$5.00 per acre per year, with a five-year, paid-up term and a 1/8 royalty.

5 **Mark Swartz:** And would you recommend those terms to the Board for people who might be
6 deemed to have been leased?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And if we combine a pooling order with the agreements that you've obtained, is
9 it your opinion that the correlative rights of the owners of the Coalbed Methane royalties would
10 be protected?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Split agreements that you're aware of?

13 **Anita Duty:** There is.

14 **Mark Swartz:** There is? Okay.

15 **Anita Duty:** Tracts 1 and 3A.

16 **Mark Swartz:** 1 and 3A. So you'll be able to pay under those?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Which is another reason we don't need escrow?

19 **Anita Duty:** Correct.

20 **Butch Lambert:** Would that be Tract 1A and 3A?

21 **Anita Duty:** 1 and 3A.

22 **Mark Swartz:** And the acres that you have that are unleased in the unit and the percentage of the
23 unit, are what?

24 **Anita Duty:** We have leased 87.7875% of the unit, seeking to pool 12.2125% of the unit.

25 **Mark Swartz:** Which I think is 9.77 acres, if I'm not mistaken. It's in one of your exhibits.

26 **Anita Duty:** Yeah, it's B3.

27 **Mark Swartz:** Alright. I think that's all I have, Mr. Chairman.

1 **Butch Lambert:** Ms. Duty, we're looking at the plat and there's not a 1, there's a 1A, B, C, D,
2 and E, F.

3 **Anita Duty:** Well, that is, the A, B, C, D, those are just individual surface owners.

4 **Paul Kugelman, Jr.:** When you say one, you mean all of those?

5 **Anita Duty:** Yes. If you look on the tract ID.

6 **Butch Lambert:** One the tract ID, it says one but the plat says, all the others. So if you're saying
7 one includes A, B, C, D, E, and F. Thank you. Any others questions from the Board? [No
8 response] Anything further Mr. Swartz?

9 **Mark Swartz:** No.

10 **Butch Lambert:** Do I have a motion?

11 **Mary Quillen:** Motion to approve.

12 **Donnie Ratliff:** Second.

13 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All
14 in favor, signify by saying yes.

15 **Board:** Yes.

16 **Butch Lambert:** Opposed, No? [No response] Thank you, Mr. Swartz. That one is approved.

17 **Item Number 8**

18 **Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling of Middle Ridge
19 Coalbed Methane Gas Field I. Unit AY145. Docket Number VGOB 16-1115-4100. All parties
20 wishing to testify, please come forward.

21 **Mark Swartz:** Mark Swartz and Anita Duty.

22 **Butch Lambert:** You may proceed, Mr. Swartz.

23 **Mark Swartz:** Anita, would you state your name again for us, please?

24 **Anita Duty:** Anita Duty.

25 **Mark Swartz:** Mr. Chairman, I'd like to incorporate Anita's prior testimony with regard to the
26 applicant and operator for employment and standard lease terms, if I might, from the prior
27 hearing.

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1 **Butch Lambert:** For the record, council has advised the Chairman to recuse himself because,
2 since this one only includes the Commonwealth of Virginia so I'm going to let Mr. Ratliff.

3 **Donnie Ratliff:** Okay, that'll be included, Mr. Swartz?

4 **Mark Swartz:** Anita, this is a pooling application. Correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** To pool a Middle Ridge Unit, correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And that unit is AY145?

9 **Anita Duty:** It is.

10 **Mark Swartz:** And we have one respondent that we need to pool, which is the very difficult and
11 troublesome Commonwealth of Virginia, correct?

12 **Anita Duty:** Correct.

13 **Mark Swartz:** Did you notify the Commonwealth that we were going to have a hearing today?

14 **Anita Duty:** We did.

15 **Mark Swartz:** Did you do that by mail?

16 **Anita Duty:** Certified Mail, Return Receipt Requested on October 14th.

17 **Mark Swartz:** And did you also publish?

18 **Anita Duty:** Published in the Bluefield Telegraph on October 19th.

19 **Mark Swartz:** Okay, and what is the interest, the percentage, or the acreage that the
20 Commonwealth has in this unit?

21 **Anita Duty:** We're seeking to pool 0.1362% of the unit; 0.08 acres.

22 **Mark Swartz:** Okay, and how many wells are you proposing?

23 **Anita Duty:** One.

24 **Mark Swartz:** Okay, and you've given us a plat, correct?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** Which shows the 58.74 acre unit and shows the one well, AY145 within the
2 drilling window?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Is that a frack well?

5 **Anita Duty:** It is.

6 **Mark Swartz:** Have you provided a cost estimate?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Estimated at this point is what?

9 **Anita Duty:** \$332,283.00

10 **Mark Swartz:** Okay, we have an Exhibit E here, so we've got an escrow requirement?

11 **Anita Duty:** Title conflict for Tract 2F.

12 **Mark Swartz:** And the Commonwealth is part of that conflict, correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Is it your testimony that drilling this frack well in this Middle Ridge Unit, is a
15 reasonable development plan?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And is it your testimony that if we combine the acquisition, the leases, and the
18 acquisition efforts of the operator and applicant with a pooling order pooling the
19 Commonwealth, the correlative rights of all claimants will be protected?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** That's all I have, Mr. Chairman.

22 **Donnie Ratliff:** So the conflict is between the Commonwealth and Buchanan Mining, right? Is
23 that right?

24 **Anita Duty:** Buchanan Mining is a coal owner and CNX Gas is a gas owner. Either
25 Commonwealth owns it all or Buchanan Mining Company owns the coal...

26 **Donnie Ratliff:** That is [Inaudible]. Thank you.

27 **Paul Kugelman, Jr.:** I mean, so Buchanan Coal only owns the coal interest?

]

- 1 **Anita Duty:** As a coal owner.
- 2 **Paul Kugelman, Jr.:** Okay, I thought...
- 3 **Mary Quillen:** Would that not be covered under the House Bill?
- 4 **Anita Duty:** Not a title conflict.
- 5 **Paul Kugelman, Jr.:** I'm just confused as to what the title conflict is.
- 6 **Anita Duty:** The conveyance is to the road and one part of, same thing we kind of had last
7 month, where, in one section it's shown as a conveyance and the other it's shown as a right of
8 way. There's conflicting language in the deeds to the Commonwealth.
- 9 **Mark Swartz:** So it's did the fee actually transfer, is the problem.
- 10 **Paul Kugelman, Jr.:** Okay. Thank you, appreciate it.
- 11 **Anita Duty:** We can bring you an example next month so you can see why this is...
- 12 **Paul Kugelman, Jr.:** No you won't.
- 13 **Anita Duty:** Okay.
- 14 **Paul Kugelman, Jr.:** Because we're not going to be here next month.
- 15 **Butch Lambert:** Oh, that's right. We'll tell you later.
- 16 **Anita Duty:** Oh, we're not going to be here?
- 17 **Mary Quillen:** Merry Christmas.
- 18 **Butch Lambert:** We don't know yet. We'll tell you later.
- 19 **Paul Kugelman, Jr.:** I'm sorry. Counsel violated...
- 20 **Mark Swartz:** You all are so excited about not getting together. [Laughs]
- 21 **Mary Quillen:** That kind of hurts our feelings. You all are just a little too happy.
- 22 **Anita Duty:** No cookies. No brownies.
- 23 **Donnie Ratliff:** Any other questions? [No response] Anything further, Mr. Swartz?
- 24 **Mark Swartz:** No.
- 25 **Donnie Ratliff:** Board has not questions. Call for a motion.
- 26 **Mary Quillen:** Motion to approve.

1 **Bruce Prather:** Second.

2 **Donnie Ratliff:** Motion has been properly seconded. All those in favor, say yes.

3 **Board:** Yes.

4 **Donnie Ratliff:** No?

5 **Butch Lambert:** One abstention.

6 **Donnie Ratliff:** That was is approved, Mr. Chairman.

7 **Butch Lambert:** Thank you, Mr. Ratliff.

8 **Item Number 9**

9 **Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling of Middle Ridge
10 Coalbed Methane Gas Field I. Unit AW147. Docket Number VGOB 16-1115-4101. All parties
11 wishing to testify, please come forward.

12 **Mark Swartz:** Mark Swartz and Anita Duty.

13 **Butch Lambert:** You may proceed, Mr. Swartz.

14 **Mark Swartz:** I'd like to incorporate Anita's testimony from the prior, two prior hearings, with
15 regard to the applicant and operator, with regard to employment and with regard to standard
16 lease terms, if I could.

17 **Butch Lambert:** Accepted.

18 **Mark Swartz:** Thank you. I would like to point out the Board a mistake in the papers, you
19 know, occasionally we don't get everything 100% right. The caption on the application says it's
20 an Oakwood Unit. It's actually a Middle Ridge Unit. This is by the plat and the documents inside
21 the application, so just bring that to your attention. Anita, state your name for us again.

22 **Anita Duty:** Anita Duty.

23 **Mark Swartz:** I will remind you that you're still under oath.

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And are you here today on behalf of the applicant and the operator, correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Okay, and this is a pooling application again for a Middle Ridge Unit?

]

1 **Anita Duty:** It is.

2 **Mark Swartz:** Have you listed the respondents in Paragraph 7 of your application?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Since filing this, have you done any leasing that requires any changes here?

5 **Anita Duty:** WE have leased Andy and Charlene Brown.

6 **Mark Swartz:** So are you proposing that we dismiss them as respondents?

7 **Anita Duty:** Yes, we filed corrections to E-Forms. I don't know of anybody has the revised
8 exhibit B2 and B3.

9 **Mark Swartz:** Okay, so if they don't have it, it's been filed in E-Forms and it's showing the
10 dismissal of Andy Lee and Charlene Brown, et al, correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Do you want to dismiss anybody else?

13 **Anita Duty:** No.

14 **Mark Swartz:** Do you want to add anybody else as a respondent?

15 **Anita Duty:** No.

16 **Mark Swartz:** So with that one change, regarding those two people, we're good to go with
17 regard to the lineup of the respondents that need to be pooled?

18 **Anita Duty:** We are.

19 **Mark Swartz:** Okay, what did you do to notify people that we would be having a hearing today,
20 with regard to pooling this particular unit?

21 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested on October 14, 2016.
22 Published the notice and location map in the Bluefield Daily Telegraph on October 19, 2016.

23 **Mark Swartz:** Looks like you provided your certification of notice to E-Forms, correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And it shows a couple of the items of mail returned?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** But because you published, we've touched that base, correct?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Did you also file with the Board, your proof of publication?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Okay. Back now, let's look at the plat. The unit is a 58.74 acre unit, right?

6 **Anita Duty:** It is.

7 **Mark Swartz:** And you show, in this Middle Ridge Unit, you show two wells, basically, on the
8 North and South portions of the eastern boundary of the unit. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And to do that, you would have had to obtain a location exception, to make that
11 happen, correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Did you do that?

14 **Anita Duty:** That was done in the committee [Inaudible].

15 **Mark Swartz:** I understand, but did you do that?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Okay, and so you got a location exception for AW147A then?

18 **Anita Duty:** Yes. It should be loaded. Anytime we have a location exception like that, we load
19 those into supporting documents.

20 **Mark Swartz:** Right, and I believe it's in the supporting documents here, but I wanted to make
21 note of it.

22 **Anita Duty:** Oh, okay.

23 **Mark Swartz:** And I'll see if I can find that page. Okay, if we go to Pages 34-35, there's
24 actually supporting documentation, with regard to the location exception request, correct?

25 **Anita Duty:** Yes.

]

1 **Mark Swartz:** Okay. Now going back to the plat. The AW147, and that will be surveyed to
2 make sure that it is actually within the boundaries of the unit, correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** The location?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** You've given us your Exhibit B, which is all the people with interest in the unit.
7 We have an Exhibit B3, which is the people that you're pooling, minus the people we're
8 dismissing?

9 **Anita Duty:** Correct.

10 **Mark Swartz:** We've got two well cost estimates, with regard to the two proposed wells. What
11 are the amounts of those estimates?

12 **Anita Duty:** \$337,015.00.

13 **Mark Swartz:** And Exhibit E, which requires escrow?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And we're escrowing how many acres and what percent?

16 **Anita Duty:** 0.06 acres; 0.1021 percent.

17 **Mark Swartz:** Okay, and why is escrow required there?

18 **Anita Duty:** This is for that interest that we talked about previously, on the infill application, so
19 we need the [Inaudible].

20 **Mark Swartz:** The documentation?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** This is the person that won't give us the affidavit of heirship?

23 **Anita Duty:** Correct.

24 **Mary Quillen:** Just one question on this; the percentage that we actually are looking at, is
25 18.1648, and that was before the lease. Has that been updated with the Office of Gas and Oil?

26 **Anita Duty:** Yes, we've loaded the revised exhibits, and now we're just seeking to pool
27 4.0007%.

1 **Mary Quillen:** Thank you.

2 **Mark Swartz:** That math didn't work anyway, that you're looking at.

3 **Mary Quillen:** Oh, it didn't.

4 **Mark Swartz:** Look at the acreage and the percentage, it didn't work, but it's been corrected.

5 **Mary Quillen:** It has been corrected? Okay. Thank you.

6 **Mark Swartz:** Is it your testimony, Anita, that drilling two wells in the locations depicted on the
7 plat, is a reasonable method or reasonable way to develop the coalbed methane resource within
8 this unit?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Is it your further opinion, that by pooling the folks identified as respondents here
11 and combining the pooling order with the lease agreements and acquisitions, that your applicant
12 has made, that the correlative rights of all folks will be protected?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And that this affidavit of heirship issue is resolved, there will be no escrow
15 requirement, but at least temporarily there is?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** And do we have an Exhibit EE? Doesn't look like it.

18 **Anita Duty:** No.

19 **Mark Swartz:** Okay. That's all I have, Mr. Chairman.

20 **Butch Lambert:** Any questions from the Board?

21 **Donnie Ratliff:** Mr. Chairman?

22 **Butch Lambert:** Mr. Ratliff.

23 **Donnie Ratliff:** On Exhibit E, on Tract 1C, now there's heir under Lawrence Stinson.

24 **Anita Duty:** Mine says heirs unknown. Lawrence Stinson, heirs [Inaudible]successors are
25 assigned.

26 **Donnie Ratliff:** Wiley Blankenship under Tract 1C and Marie Blankenship heirs.

]

1 **Anita Duty:** That's how they originally comes down. It's Lawrence Stinson heirs, et al. There's
2 Wiley Blankenship, then it goes, actually Wiley shouldn't be in there because Wiley's an A. See
3 how the numbering? And Marie Blankenship; Lawrence Stinson is an heir of Marie Blankenship.

4 **Donnie Ratliff:** Oh.

5 **Anita Duty:** And that's the only place that there's an interest, it's out by Lawrence Stinson heirs.
6 That's just showing the way that it comes down the chain. It's Lawrence Stinson heirs, et al.
7 There's other owners in that tract.

8 **Mark Swartz:** Go back, what makes a little more sense, go back to B3, which I think is Page 15
9 on your pdf. See under Tract 1C there, Donnie? Here we've got Marie Blankenship heirs,
10 Indiscernible 1:30:33 and then we've got Lawrence Stinson, you know, his heirs, documentation
11 pending, and then we also have under B, Lena, because we know she owns half. So that shows it
12 a little better. And we're not escrowing her piece because...

13 **Anita Duty:** The B probably shows it better than anything.

14 **Mark Swartz:** Well, the B3 shows it too. So you see, we've accounted for half of that interest
15 and we've got to pay her, and the other half, until we get that heirship issue squared away, it's
16 going to be in escrow. And if that's still clear as mud, ask another question, but I think
17 that's...okay.

18 **Butch Lambert:** Any other questions from the Board? Anything further, Mr. Swartz?

19 **Mark Swartz:** No.

20 **Butch Lambert:** Do I have a motion?

21 **Donnie Ratliff:** Motion to approve.

22 **Mary Quillen:** Second.

23 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All
24 in favor signify by saying yes.

25 **Board:** Yes.

26 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That one is approved.
27 Let's take about a 10 minute recess.

28 **Item Number 10**

29 **Butch Lambert:** Okay, ladies and gentlemen, we'll begin our proceedings again this morning,
30 and we're calling Docket Item Number 10. A petition from CNX Gas Company, LLC, for (1)

1 the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent,
2 attributable to a portion of Tracts 1, 5, 6, 7 & 12, as depicted upon the annexed table; (2)
3 authorization to begin paying royalties directly to the parties listed in the petition; and (3)
4 dismissal of coal owners. This is Docket Number VGOB 97-0218-0564-05. All parties wishing
5 to testify, please come forward.

6 **Mark Swartz:** Mark Swartz and Anita Duty.

7 **Butch Lambert:** You may proceed, Mr. Swartz.

8 **Mark Swartz:** Thank you. Anita, state your name for us.

9 **Anita Duty:** Anita Duty.

10 **Mark Swartz:** I'll remind you that you're still under oath.

11 **Anita Duty:** Yes.

12 **Mark Swartz:** This particular petition is requesting a disbursement of escrowed funds, correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Pertaining to Unit U28?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And did you mail, with regard to this?

17 **Anita Duty:** We did.

18 **Mark Swartz:** Okay, and when did that happen?

19 **Anita Duty:** October 13th.

20 **Mark Swartz:** Have you provided your certificates, with regard to mailing, like filing them
21 online?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Okay. It looks like that's Page 21?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Looks like you've got everybody according to your certification?

26 **Anita Duty:** We actually revised it after we filed it.

]

1 **Mark Swartz:** Okay, and have you revised the certification of notice since this was originally
2 filed and have you uploaded that?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And what changes did you make to what the Board is currently looking at?

5 **Anita Duty:** We updated the E and EE and the table, to remove David Smith, Donald Smith,
6 and Peggy Smith because the mail was still showing in transit.

7 **Mark Swartz:** Okay.

8 **Anita Duty:** So we went ahead and removed them.

9 **Mark Swartz:** And are all of those exhibits uploaded to at least the E-Forms?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Okay. And let's go back to the beginning here; and the reasons for the relief that
12 we're seeking or the disbursements are a couple of reasons. First, we have a court case, correct?

13 **Anita Duty:** We do.

14 **Mark Swartz:** And then in addition, we have a disbursement that people are entitled to because
15 of the House Bill?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And in that regard, have you provided any notices to coal owners?

18 **Anita Duty:** We have.

19 **Mark Swartz:** Have you prepared a Table 1?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And on Table 1, has that been revised as well?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Okay. Let me look at the law we currently have. Okay, it looks like the folks that
24 you've discussed have, in fact, been removed from the Table 1 that the Board has, which would
25 be on Pages 6 and 7, correct?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** Okay, so is your request then, that the escrow agent be ordered to make
2 disbursements in accordance with Table 1?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And in that regard, have you given, in Table 1, the name and address of every
5 person or company that is to receive a disbursement?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And then in the second column from the right-hand side of that table, have you
8 given a percentage for each person or company?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And should the escrow agent be instructed to use that percentage for each person
11 or company, multiply it times the balance on hand when the checks are to be cut, and that will
12 generate the dollar amount of the check to be made?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Okay, and have you provided a reconciliation?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay, and the last page of that reconciliation is at Page 3 of the documents that
17 the Board has and have you done, first of all, did you try to accumulate a list of all royalty
18 deposits that were made?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And then did you go looking for a deposit to confirm that they had all been
21 deposited?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And was that a fact, they had all made it into the account?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And did you do your own calculation, including prior disbursements and deposits
26 for purposed of comparing that to the August 2016, First Bank and Trust balance?

27 **Anita Duty:** Yes.

]

1 **Mark Swartz:** Now, when you made the comparison, it looks like you were coming up with
2 \$3.52 more than First Bank and Trust?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And were these filed before we were going to straighten this out and be
5 consistent?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay. So that's still to come? That'll be there next time?

8 **Anita Duty:** We have been doing that because I've made sure...

9 **Mark Swartz:** So the next time we appear here, whether it's at Christmas or New Year's?

10 **Anita Duty:** That's right.

11 **Mark Swartz:** Okay. Alright. And then you included a copy, I think of the court decision,
12 correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And it looks like we have Mr. Cook again, right?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And who is, let's see, who is...?

17 **Anita Duty:** Should be Kendris Harman and Henry Harman.

18 **Mark Swartz:** Okay, are to get, I guess the checks are to be mailed to Mr. Cook for those two
19 people?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Okay. That's all I have, Mr. Chairman.

22 **Rick Cooper:** Mr. Chairman? I would like to point, is there not two more people that checks go
23 to Mr. Cook on that? Like Dickey Looney and Kathy Looney?

24 **Anita Duty:** Yes.

25 **Rick Cooper:** Thank you.

26 **Mark Swartz:** Yes, so we get that straight, let's, there are four people. What are their names?

1 **Anita Duty:** Kathy Looney, what's the husband's name?

2 **Rick Cooper:** Dickey.

3 **Mark Swartz:** In addition to the...

4 **Anita Duty:** Kendris Harman and Henry Harmon.

5 **Mark Swartz:** Those are the four people that the checks should be made payable to those folks
6 but made payable to Shae Cook, right?

7 **Anita Duty:** Right.

8 **Mark Swartz:** And then the last thing that I think we need here is, you got a certification of
9 notice to coal owners?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** The notice actually found its way to all of them?

12 **Anita Duty:** It did.

13 **Mark Swartz:** And is this the list of coal owners that should be dismissed, with regard to this
14 particular unit?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And you provided the sample letter that went out to them?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Those additions [Inaudible].

19 **Butch Lambert:** I have a question. On your reconciliation table, maybe you Ms. Duty or maybe
20 Mr. Cooper, there's a note on there that says "error per DGO. Refund of \$11,421.55". Can you
21 provide us a little bit of information about why that's such a large error on DGO's part? I mean,
22 looking through the table, I don't see anything in the table that would reflect that.

23 **Anita Duty:** If you look on September 30, 2011, it shows a deposit of \$11,421.55.

24 **Butch Lambert:** 2011? Yes, I see that.

25 **Anita Duty:** I think that's where, that's what we're talking about. That was not...

26 **Butch Lambert:** So it was an error that was deposited on...

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1 **Anita Duty:** A posting error.

2 **Butch Lambert:** Can you help us out, Mr. Cooper?

3 **Rick Cooper:** I think it was just a posting error, so I was trying to see if I'd done a letter on that.
4 I just don't remember.

5 **Butch Lambert:** So, once that error was found and the account was reconciled, you're up to date
6 on \$3.52?

7 **Mark Swartz:** Correct. And if that wasn't reconciled, then the account would be showing
8 \$11,000 more, so it would be \$11,000 plus the \$3.50.

9 **Anita Duty:** We can follow up after.

10 **Mark Swartz:** But in terms of the royalties that we paid that should have gone into this unit,
11 we're within \$3.52 once you make that change.

12 **Butch Lambert:** So I guess, Mr. Cooper, if that was a posting error, where did the \$11,000 go?

13 **Rick Cooper:** At this time, I do not know the answer to that, but I can do some research and get
14 back with the Board at the next meeting, but at this current second, I do not know the answer to
15 that.

16 **Butch Lambert:** Okay.

17 **Donnie Ratliff:** Mr. Chairman?

18 **Butch Lambert:** Mr. Ratliff.

19 **Donnie Ratliff:** It shows a deposit but it doesn't show it being taken out, so most likely it was
20 deposited into the wrong account and someone caught it and moved it.

21 **Rick Cooper:** It very well could have been and I don't know for sure, but we have seen that in
22 the past happen.

23 **Anita Duty:** We can work together to come up with this after, if you want to make it pending
24 resolution of the error.

25 **Butch Lambert:** I guess if it's in error and it's been reconciled, my question that I would have
26 from the Board is where did the \$11,000, what happened to the...?

27 **Anita Duty:** That's what I was, I don't see it coming, I see some distributions, but I'm not sure
28 that distribution is related to that incorrect posting. So I think that's what we've got to figure out.

1 **Rick Cooper:** Yes.

2 **Butch Lambert:** Okay, we'll wait. Mr. Cooper, you can just report back at the next Board
3 hearing.

4 **Mary Quillen:** Just posted to the wrong account.

5 **Mark Swartz:** See, the disbursement, I mean probably one of these...

6 **Mary Quillen:** That's highly likely with that large amount.

7 **Mark Swartz:** Probably want one of these disbursements may show that as a correcting
8 payment. We don't know at the moment. So it may have come out in one of those, but we don't
9 know. We need to get the answer to that.

10 **Donnie Ratliff:** I don't think it's necessary to hold up.

11 **Butch Lambert:** No, I wouldn't want to hold up.

12 **Mark Swartz:** I think we should get an answer for you.

13 **Donnie Ratliff:** Just general information.

14 **Rick Cooper:** There has been a disbursement since then, you see. This is the second one after
15 that.

16 **Mark Swartz:** Well, there's no...

17 **Donnie Ratliff:** \$9,000 and something.

18 **Butch Lambert:** Yeah, \$9,929.00 after that error, so.

19 **Rick Cooper:** What we will do is check the transcript and see if that subject came up last time
20 also.

21 **Butch Lambert:** Did you need to add something, Ms. Quillen?

22 **Mary Quillen:** No, I was just thinking out loud that ordinary something like that, if it's supposed
23 to be posted to another account, it should have shown up in the other account because the other
24 account would have been short \$11,000, so probably, cross-referencing those, maybe.

25 **Rick Cooper:** We'll have to follow up on it.

26 **Butch Lambert:** Okay.

27 **Rick Cooper:** I don't really have a good answer right now.

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1 **Butch Lambert:** Okay, anything further, Mr. Swartz?

2 **Mark Swartz:** No, except if you look at the two disbursements that came afterwards, they're
3 almost \$11,000, but we don't know for sure. But if you look at the, one of them was \$2,021.84
4 and one of them was the \$9,929.84 and if you add that up.

5 **Mary Quillen:** Yeah, there's very little difference in that.

6 **Mark Swartz:** So that may be. We'll figure that out.

7 **Butch Lambert:** Okay. That's fine and then we can get a report back next Board meeting. Any
8 other questions from the Board? [No response] Do I have a motion?

9 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

10 **Butch Lambert:** Do I have a second?

11 **Bruce Prather:** I'll second.

12 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All
13 in favor, signify by saying yes.

14 **Board:** Yes.

15 **Butch Lambert:** Opposed, no? [No response]

16 **Butch Lambert:** Thank you, Mr. Swartz. That one is approved.

17 **Mark Swartz:** Thank you.

18 **Item Number 11**

19 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
20 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 2C,
21 2D, 2E & 2F, as depicted upon the annexed table; (2) authorization to begin paying royalties
22 directly to the parties listed in the petition; and (3) Dismissal of coal owner. This is Docket
23 Number VGOB 98-0324-0636-03. All parties wishing to testify, please come forward.

24 **Mark Swartz:** Mark Swartz and Anita Duty.

25 **Butch Lambert:** You may proceed, Mr. Swartz.

26 **Mark Swartz:** Thank you. Anita, state your name for us again.

27 **Anita Duty:** Anita Duty.

1 **Mark Swartz:** Still under oath?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** You're here on behalf of CNX Gas Company, LLC with regard to this petition?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** We're asking for a disbursement from X35's escrow account?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And the reasons for the request are, it looks like, House Bill 358, correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And we've given some notices to coal owners as well?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Did you mail to everyone?

12 **Anita Duty:** We did.

13 **Mark Swartz:** And you provided your certifications, with regard to mailing?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** It looks like the certification of notice to the people, regarding the disbursements,
16 is at Page 13 of the pdf, and everybody signed for their mail?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And then if we go to the pool, there is at Page 24, there is a Certification of
19 Notice went out to Hurt McGuire?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And they signed for that mail?

22 **Anita Duty:** They did.

23 **Mark Swartz:** Okay. You prepared a Table 1 giving directions to the escrow agent in terms of
24 how to make the disbursements?

25 **Anita Duty:** Yes.

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1 **Mark Swartz:** And this is a percentage disbursement?

2 **Anita Duty:** It is.

3 **Mark Swartz:** Okay, and for each tract and for each person or company that supposed to receive
4 a disbursement, have you included them on Table 1?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And for each person or company, have you given a name and an address, with
7 regard to how the checks are to be made out?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And for each person or company, in the second column from the right-hand side,
10 have you given a percentage the escrow agent is to use to multiply times the balance on hand at
11 the time the checks are cut, and that operation will then cause the right check amount to occur?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay. Looks like we're going to still need some escrow, there'll still be an
14 escrow requirement after these payments?

15 **Anita Duty:** There will.

16 **Mark Swartz:** And indicated why those are required on your Exhibit E?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And that's a revised Exhibit E, correct?

19 **Anita Duty:** It is.

20 **Mark Swartz:** And you've given reasons, generally in red?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Okay, and then I'm thinking we're going to have an Exhibit EE?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And that would be how you would like to pay, going forward?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** So in some respects, you're going to be paying people directly who are receiving
2 checks now.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Or checks out of escrow?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And to the extent that Hurt McGuire has split agreements and is listed in Exhibit
7 EE, they are going to receive money, going forward, correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And to the extent that they do not have split agreements, they are going to be
10 dismissed?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Did you do a reconciliation on this account?

13 **Anita Duty:** We did.

14 **Mark Swartz:** And, it looks like Page 22 is the beginning of the summary, right?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And the pdf, I take that back, Page 21 pdf. First step, did you assemble all of the,
17 as list of the royalty payment checks that you issued?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And then did you look for deposits?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And when you did that, how did that go?

22 **Anita Duty:** There were several instances throughout this account where the deposits did not
23 match.

24 **Mark Swartz:** Okay, and have you summarized those at Page 22?

25 **Anita Duty:** Well, the net would be there.

26 **Mark Swartz:** Okay. And are those corrected in Exhibit J?

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1 **Anita Duty:** Just the one deposit is corrected.

2 **Mark Swartz:** Okay, so there's more that need to be corrected?

3 **Anita Duty:** Well, they're so old, historically, I don't know if there's anything we can do about
4 it. There's just different...

5 **Mark Swartz:** Okay, basically we're looking at 2001, early 2002?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay, and if we go to that page, so you've got a number of escrow...

8 **Anita Duty:** Several.

9 **Mark Swartz:** Okay, and when you do your math, in terms of total, let's go to that portion.
10 When you go to Page 21, you deposited royalty checks, well, royalty checks were deposited of
11 \$77,282.44. Is that a number you would agree with?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** There was a disbursement in March and then you just got the interest and fees
14 number from the bank records that you had access to?

15 **Anita Duty:** Correct.

16 **Mark Swartz:** And you came up with a total?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And when you compared that total, in spite of the other issues that you had, to the
19 April 2016 First Bank and Trust balance, you were within \$572.97?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And is it your testimony that because of the age and the record keeping of the
22 prior escrow agents, you are unable to resolve that difference?

23 **Anita Duty:** Correct.

24 **Mark Swartz:** And this is something that you have visited with Sarah and Rick about?

25 **Anita Duty:** Actually, with Jody.

26 **Mark Swartz:** Okay.

1 **Anita Duty:** The escrow agent. We were trying to work and do some of them but there's no
2 records.

3 **Mark Swartz:** There's no way to do it. Okay. So, the relief we're requesting are payments out of
4 escrow to the people listed in Table 1; a dismissal of Hurt McGuire [Inaudible] doesn't have split
5 agreements and they're saying that the Unit to be sent, they do; and the ability to directly pay the
6 people receiving the disbursements. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** That's all I have, Mr. Chairman.

9 **Butch Lambert:** Questions from the Board? Anything further, Mr. Swartz?

10 **Mark Swartz:** No.

11 **Butch Lambert:** Do I have a motion?

12 **Donnie Rife:** Motion made for approval [Inaudible], Mr. Chair.

13 **Donnie Ratliff:** I'll second that.

14 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All
15 in favor, signify by saying yes.

16 **Board:** Yes.

17 **Butch Lambert:** Opposed, no? [No response]

18 **Butch Lambert:** Thank you, Mr. Swartz. That one is approved.

19 **Item Number 12**

20 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
21 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 4, as
22 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
23 parties listed in the petition. This is Docket Number VGOB 02-0521-1028-02. All parties
24 wishing to testify, please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty.

26 **Butch Lambert:** You may proceed.

27 **Mark Swartz:** Thank you. Anita, state your name for us.

28 **Anita Duty:** Anita Duty.

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1 **Mark Swartz:** And you're still under oath?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** And you are here on behalf of CNX Gas Company, LLC, with regard to this
4 request for disbursement from the escrow account, pertaining to Unit AZ115, correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Okay, and the reason for this disbursement request is we have a court case?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** If this disbursement request is granted, there will be no further escrow
9 requirements, correct?

10 **Anita Duty:** Correct.

11 **Mark Swartz:** Okay, we've got a Table 1. The only person or company receiving the
12 disbursement is the winner of the litigation?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And they're to receive 100% of the amount on hand at the time the check is cut?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And you've got a revised Exhibit E, which shows that escrow is no longer
17 required?

18 **Anita Duty:** Correct.

19 **Mark Swartz:** I assume you told, by mail, the coal company this was coming?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** I gather their lawyer is Mr. Cook because you mailed to him?

22 **Anita Duty:** Yes, it is. Yes.

23 **Mark Swartz:** Did you do a reconciliation, Exhibit J?

24 **Anita Duty:** We did.

25 **Mark Swartz:** And we're you able to find a deposit for every royalty check you issued?

1 **Anita Duty:** We did.

2 **Mark Swartz:** Okay, so the difference here is not accounted for by a missing deposit?

3 **Anita Duty:** Correct.

4 **Mark Swartz:** Okay, and when you did your math, estimating the balance, you came up with

5 \$460.55 more than the August 2016 First Bank and Trust balance, correct?

6 **Anita Duty:** Correct.

7 **Mark Swartz:** You've attached a copy of the final order and this is a case where the check is to

8 be sent, looks like made out to the coal company but sent to Mr. Cook?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** That's all I have, Mr. Chairman.

11 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

12 **Mark Swartz:** No.

13 **Butch Lambert:** Do I have a motion?

14 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

15 **Bruce Prather:** Second.

16 **Butch Lambert:** I have a motion and I have a second. Any further discussion? All in favor,

17 signify by saying yes.

18 **Board:** Yes.

19 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That is approved.

20 **Mark Swartz:** Thank you.

21 **Item Number 13**

22 **Butch Lambert:** CNX Gas Company, LLC, will provide the Board an update on the extension

23 request that was submitted, Docket Number 16-0621.

24 **Mark Swartz:** We asked for, I think, two extensions when we were last here, and those were

25 both filed within a week of leaving here. So those are taken care of. But in terms of giving you

26 sort of an update, I'm not sure we have to do an update, but it'll just take a moment. I had Anita

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1 go back and look at September and October. We had intended to do November, but she was off,
2 but for September though, we had 15 hearings and this would have been through the DGO, right?

3 **Anita Duty:** Right. These are just, this is the status of how we filed them. So, we filed 15 in
4 September, that were prior to the hearing, just so you understand how.

5 **Mark Swartz:** And then there we 16 filed with the DGO, right?

6 **Anita Duty:** That required no hearing. Yes.

7 **Mark Swartz:** That required no hearing, so that was 31 cases, disbursement requests that were
8 filed in September and the breakout, we've got dollar amounts breaking it out, but the total dollar
9 amounts coming out of escrow is the result of those 31 in September was \$807,569.65. So a little
10 over three quarters of a million dollars.

11 **Paul Kugelman, Jr.:** Are these the ones you previously requested a continuance for?

12 **Mark Swartz:** No, no. These are just an update because remember we were in this status where
13 we haven't really requested for an extension on these other units because we said we're done but
14 we wanted to report back to the Board and I think you would wanted us to do that in terms of, are
15 we continuing to exercise due diligence to move forward with disbursements. So in December, it
16 was a great, or I'm sorry, September. October, we filed for one hearing and 20 cases that did not
17 require a hearing, so there were 21 petitions filed and the total for that would have been
18 \$65,146.53 [Inaudible] as a result of those petitions. Anita, how many did you file in November?

19 **Anita Duty:** So far, in November, we filed 15 petitions.

20 **Mark Swartz:** But we don't know the dollar amounts, but just to give you a sense of, you know,
21 we're continuing to process papers, you know, to count, as the papers come in.

22 **Mark Swartz:** \$65,146.93 and that breaks out of the ones that required a hearing in October.
23 There was \$11,759.69 and then the amount you guys would have been able to process was
24 \$53,387.44, which gives them the total.

25 **Anita Duty:** And these are just estimated dollars, based on our Exhibit J at the time that we filed
26 the petition. So as far as you tying those numbers to what you all processed, those are what we
27 filed. Now, depending on what docket they end up being on or what time they are in the
28 processes, I don't know if you can tie those things together, but we've got units and dollars...

29 **Bruce Prather:** What percentage is that of your total. What's the percentage of what you've
30 done so far, of the total of items that were on that escrow account?

31 **Mark Swartz:** Rick, where do we start, where are we, I don't know.

32 **Rick Cooper:** Yeah, so what we hope to do here, we're working off the October summary. The
33 next hearing, we'll report better numbers out; unknowns, unlocatables, and percentages. We

1 hope to get like an annual report of the status of all the escrow accounts that's left. So if you can
2 hold off until January, we'll try to give you a pretty good explanation of what the escrow account
3 looks like. And I do know, I don't know the exact number, but we've closed more than 400
4 accounts. And a lot of the remaining ones are unknown/unlocatables but we will break that down
5 and give a better explanation at the next hearing.

6 **Mary Quillen:** That's amazing.

7 **Mark Swartz:** Well, but there are a ton of people left, you know, and money, but yeah, we've
8 made a heck of a lot of progress.

9 **Butch Lambert:** While we've got CNX here, can you give us an update on unfunded accounts?

10 **Rick Cooper:** I can. So, we've been working real closely, and I give Ms. Gilmer and Ms. Ketron
11 a lot of credit in working with the companies. We think we're down to two and we may have
12 those resolved so there is a CC30 that the check is in, somewhere between Pittsburgh and the
13 bank and once that arrives in the bank, Jody will notify us and CC30 will disappear. And we do
14 know the check, we've got a copy of the check it just has not arrived at the bank yet, so, and the
15 other one is 01. We think working with CNX, once they submit a supplement, that that one will
16 be taken off of the unfunded also, and we just need a supplement to clarify the state of the order
17 and once we do that, that category will be removed and we hope that never surfaces again.

18 **Butch Lambert:** So do we.

19 **Mark Swartz:** The check was Fed Ex'd from Pittsburgh yesterday for delivery today so and I've
20 given them the Air Way Bill and a copy of the check. It was \$1,900.00 and some change, so we
21 know that's happening. They'll have it today. And the other one didn't require escrow.

22 **Anita Duty:** We just have to update the supplemental to say that.

23 **Butch Lambert:** Okay. Alright. Thank you.

24 **Rick Cooper:** It's been a great effort. Ms. Ketron has really worked hard and so has Anita. I
25 want to put Anita in that also.

26 **Anita Duty:** I feel like I forced that, that I forced that out.

27 **Butch Lambert:** I believe you did.

28 **Rick Cooper:** I don't know how to explain that in the transcript, that look, but all the companies
29 know we've had a lot of discoveries when we were doing this. This is how we found the
30 Magnum Hunter problem and things like that, so, again, everyone had a little responsibility in
31 that unfunded account, but we had should have never had accounts sit in there 10, 12, 15 years.
32 So it has been a project all by itself, but we can say, I think we can say that we have closed that
33 category. That may be the first project that we've ever completed at DGO in the supplement.

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1 **Butch Lambert:** Thank you, Rick. Good work. Appreciate it.

2 **Rick Cooper:** Sally and Sarah.

3 **Butch Lambert:** Thank you, Anita. Good work.

4 **Mark Swartz:** It's bad when you have to beg.

5 **Anita Duty:** I know. It's not the same really.

6 **Paul Kugelman, Jr.:** You were turned about 135 degrees away from me; I could feel the heat
7 over hear.

8 **Mark Swartz:** After all we've done for him, too.

9 **Rick Cooper:** I gave her credit. I was working up to that but she put the stun gun on me before I
10 got the opportunity to say anything.

11 **Anita Duty:** That's what my son tell me. He says mom, you didn't even give me a chance.

12 **Mark Swartz:** I gather we're doing something different in December, is that true?

13 **Butch Lambert:** Yes, we will be cancelling our December hearing. That we won't, we've only
14 got three or four already submitted.

15 **Anita Duty:** That means no treats.

16 **Mary Quillen:** We're going to do it in January. I knew that...

17 **Anita Duty:** That was my only disappointment.

18 **Butch Lambert:** We still have to have Ms. Quillen's treats.

19 **Mary Quillen:** I'll bring those in January.

20 **Item Number 14**

21 **Butch Lambert:** Okay, so the next item is the Board will receive an update of Board and
22 division activity from the staff. Mr. Cooper.

23 **Rick Cooper:** So, since Ms. Duty is here, I want to thank you right up front that she had assured
24 us that we would get a second deposit for W34 by the end of October and we did, so in October,
25 the first check was for \$23.90 some odd cents. That's a total deposit in that account was
26 \$3,447.00, so that was an issue that had been brought up previously, so we have that issue
27 resolved. One issue that we have not got resolved is the escrow uploads. We are working with
28 EQT, but I think during her testimony, she said she would have that completed by the November

1 hearing. She still does not have that job completed. There's four outstanding ones. She is
2 working on it, but her transcript, she does not have that completed as we speak today.

3 **Butch Lambert:** And in light of that, I'm going to recommend, of course with the Board's
4 recommendation, but I'm going to ask that if EQT does not complete that by the next Board
5 hearing, which will be January, the Board should take action. We've been two years trying to get
6 EQT to upload those. So, Mr. Cooper, you can forward a copy of the transcript to EQT letting
7 them know that they have until January.

8 **Rick Cooper:** I will do that and I would think that should be plenty of time to comply with.

9 **Bruce Prather:** Is there a penalty involved with that?

10 **Rick Cooper:** There'll be a penalty assessed by you all, I think is what Butch has said.

11 **Mary Quillen:** Yes, yes.

12 **Bruce Prather:** I'd like to put the penalty in your letter. That makes it more...

13 **Paul Kugelman, Jr.:** We'll work with council on that and we can tell them that it can be a
14 maximum, I think it's \$10,000 per day, per violation. Which adds up quick.

15 **Rick Cooper:** I understand, and I will strongly encourage them to make sure they have this
16 project completed prior to that.

17 **Butch Lambert:** In addition to the transcripts, if you would draft a letter and make sure Mr.
18 Kugelman reviews the letter, to send along with the transcript.

19 **Rick Cooper:** We will do that.

20 **Butch Lambert:** Thank you. Is there anything else?

21 **Rick Cooper:** There's actually some good news also. So, what we had disbursed since the House
22 Bill kicked in July 1st last year, \$9,979,136.00, so we think if we get what we have today and
23 what we have in process, that we will break 10 million dollars by the end of the year. That was
24 the goal that we sort of set internally. We don't control that but we see the moneys are available
25 to break 10 million dollars by the end of the year. And in addition to that, if you count in the
26 one's that several of the companies started in January of last year, we've disbursed a little over
27 11 million dollars. So, we are making some progress on that and I just want to report that out,
28 that is some good news.

29 **Bruce Prather:** What's the total countdown to Rick?

30 **Rick Cooper:** Left?

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1 **Bruce Prather**: Yeah, what's left.

2 **Rick Cooper**: So that's what we're going to try to break down. There's still about 20 million
3 dollars in the account.

4 **Bruce Prather**: That's what I was thinking.

5 **Rick Cooper**: So we'll have to break down the unknown/unlocatables and that type of thing. We
6 hope we can provide that report in January so we can see just about where we stand on that.

7 **Mary Quillen**: Well, and I believe that Mr. Kugelman advised us about the court case with the
8 Yellow Poplar on the docket in February and that one is several million dollars.

9 **Rick Cooper**: Four million plus.

10 **Mary Quillen**: Four million plus, so that would be...

11 **Paul Kugelman, Jr.**: It would have been about 16, 15-16 million.

12 **Butch Lambert**: And then you include the unknown/unlocatables, we think it's somewhere
13 around five.

14 **Rick Cooper**: We think it's somewhere around five or eight million dollars in
15 unknown/unlocatables. So, we'll try to break that down the best that we can and work with all
16 the operators to get a pretty close number. It's never exact but get a pretty close number to work
17 with. The eight million includes Yellow Poplar. It does include Yellow Poplar.

18 **Mark Swartz**: So we've got about half gone. I mean, it's roughly half.

19 **Paul Kugelman, Jr.**: About [Inaudible] of what we anticipated. Right?

20 **Mark Swartz**: No, I think it's, I'm not sure.

21 **Paul Kugelman, Jr.**: It was rough, you might be right, but it was just rounded up to make
22 conversation easier, but so yeah, half, a little better. I'd take it.

23 **Butch Lambert**: Anything further, Mr. Cooper? Any more good news?

24 **Rick Cooper**: No.

25 **Item Number 15**

26 **Butch Lambert**: Okay, minutes from the October meeting. Any additions, subtractions,
27 deletions that we need to make? If not, I'll entertain a motion to approve the minutes.

28 **Donnie Ratliff**: Second.

- 1 **Butch Lambert:** Okay. All in favor, signify by saying yes.
- 2 **Board:** Yes.
- 3 **Butch Lambert:** Opposed no? Thank you folks, the minutes are approved and since we're not
- 4 meeting next month, I'd like to wish everyone a Merry Christmas and we'll see everyone back in
- 5 January. So we're adjourned.